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Government of West Bengal
Legislative Department

The West Bengal Code

Second edition

In Eight Volumes

Volume II

Bengal Acts, 1862 to 1889

(As modified up to the 30th November, 1963.)

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1964

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PREFACE

This, the second volume of the second Edition of the West Bengal Code, contains such of the Bengal Acts of the years 1862 to 1889 as are now in force in the State of West Bengal or in any part thereof. The system followed in editing the volume and other details in respect of this publication are described in the preface to volume I of this Code.

The Acts included in this volume are printed generally as modified upto the 30th November, 1963.

S. Sen Gupta,

*Secretary to the Government of West Bengal,
Legislative Department.*

Calcutta,
The 30th November, 1963.

CHRONOLOGICAL TABLE OF ENACTMENTS (1862—1889).

Year.	No.	Short title.	Page.	Remarks.
1	2	3	4	5
Bengal Acts.				
1862	I	... <i>Hoisting Signals, Hooghly</i>	<i>Repealed by Act XII of 1875.</i>
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1862	III	... <i>The Bengal Land-revenue Sales (Amendment) Act, 1862.</i>	1	
1862	IV	... <i>Discipline in Great Jail, Calcutta</i>	<i>Repealed by Ben. Act V of 1865.</i>
1862	V	... <i>Survey of Steamers</i>	<i>Repealed by Act VI of 1884.</i>
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1862	VII	... <i>The Bengal Land-revenue Resumption Act, 1862.</i>	15	
1862	VIII	... <i>The Bengal Zamindari Dak Act, 1862.</i>	...	<i>Repealed (in former Provinces of Bengal) by Act IV of 1907. Repealed (in Assam) by Act V of 1897. Repealed (in Eastern Bengal) by Ben. Act I of 1914. Repealed (everywhere) by Act X of 1914.</i>
1862	IX	... <i>Registration of deeds</i>	<i>Repealed by Ben. Act II of 1865.</i>
1863	1	... <i>Port Canning</i>	<i>Repealed by Act XII of 1875.</i>
1863	II	... <i>The Calcutta and Howrah Smoke Nuisances Act, 1863.</i>	...	<i>Repealed by Ben. Act III of 1905.</i>
1863	III	... <i>Transport of Native Labourers</i>	<i>Repealed by Ben. Act II of 1870.</i>
1863	IV	... <i>Chittagong Hill-tracts</i>	<i>Repealed by Regulation I of 1900.</i>
1863	V	... <i>Process-servers</i>	<i>Repealed by Act VII of 1870.</i>
1863	VI	... <i>Calcutta Municipality</i>	<i>Repealed by Ben. Act IV of 1876.</i>
1864	I	... <i>Hackney carriages, Calcutta</i>	<i>Repealed by Ben. Act V of 1866.</i>
1864	II	... <i>Jails</i>	<i>Repealed by Act IX of 1894.</i>
1864	III	... <i>The District Municipal Improvement Act.</i>	...	<i>Repealed by Ben. Act V of 1876.</i>
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1864	VI	... <i>Inspection of Steam-boilers, Calcutta</i>	<i>Repealed by Ben. Act III of 1879.</i>
1864	VII	... <i>The Salt Act, 1864</i>	<i>Repealed by Act XX of 1937.</i>
1865	I	... <i>Court of 24-Parganas</i>	} ... <i>Repealed by Act XII of 1878.</i>
1865	II	... <i>Registration of Deeds</i>	
1865	III	... <i>Fire in ports</i>	<i>Repealed by Act I of 1908.</i>
1865	IV	... <i>The Bengal Prevention of Inoculation Act, 1865.</i>	<i>Not printed. This is an obsolete Act.</i>
1865	V	... <i>Jails (amending Ben. Act II of 1864).</i>	<i>Repealed by Act IX of 1894.</i>
1865	VI	... <i>Transport of Native Labourers</i>	<i>Repealed by Ben. Act II of 1870.</i>
1865	VII	... <i>The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865.</i>	<i>Repealed (in Bengal) by Ben. Act XV of 1932.</i> <i>Repealed (in B. & O.) by B. & O. Act VII of 1922.</i> <i>Repealed (in Assam) by Act V of 1897.</i>
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1865	IX	... <i>Calcutta Municipality (amending Ben. Act VI of 1863).</i>	<i>Repealed by Ben. Act IV of 1876.</i>
1866	I	... <i>Ferries (amending Ben. Reg. VI of 1819).</i>	<i>Repealed (in Bengal) by Ben. Act I of 1886.</i> <i>Repealed (in Assam) by Act XII of 1891.</i>
1866	II	... <i>The Calcutta Suburban Police Act, 1866.</i> ...	31	
1866	III	... <i>The Bengal Legislative Council (Witnesses) Act, 1866.</i>	<i>Repealed by Ben. Act I of 1939.</i>
1866	IV	... <i>The Calcutta Police Act, 1866</i> ...	67	
1866	V	... <i>Hackney Carriages</i>	<i>Repealed (in Bengal) by Ben. Act II of 1891.</i> <i>Repealed (in Assam) by Act XII of 1891.</i> <i>Repealed by Ben. Act IV of 1876.</i>
1866	VI	... <i>Calcutta Municipality (amending Ben. Act VI of 1863).</i>	
1866	VII	... <i>The Bengal Embankment Act, 1866</i>	<i>Repealed by Ben. Act IV of 1915.</i>
1866	VIII	... <i>Calcutta Police (amending Ben. Act IV of 1866).</i>	<i>Repealed by Act IV of 1877.</i>

CHRONOLOGICAL TABLE OF ENACTMENTS (1862-1889)—*contd.* vii

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Bengal Acts—<i>contd.</i>				
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1866	X.	... <i>Port of Calcutta</i>	<i>Repealed by Ben. Act V of 1870.</i>
1867	I	... <i>Calcutta Municipality (amending Ben. Act VI of 1863).</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1867	II	... <i>The Bengal Public Gambling Act, 1867.</i>	...	<i>Repealed by West Ben. Act XXII of 1957.</i>
1867	III	... <i>The Bengal Ports Act, 1867</i> ...	113	
1867	IV	... <i>The Bengal Rent (Appeals) Act, 1867</i>	119	
1867	V	... <i>General Clauses</i> ...	...	<i>Repealed (in former Province of Bengal) by Ben. Act I of 1899.</i> <i>Repealed (in Eastern Bengal and Assam) by E. B. & A. Act I of 1909.</i>
1867	VI	... <i>Police in Towns and Municipalities</i>	}	<i>Repealed by Ben. Act V of 1876.</i>
1867	VII	... <i>District Municipal Improvement (amending Ben. Act III of 1864).</i>		
1867	VIII	... <i>E. I. Irrigation Co. water-rates</i> ...	...	<i>Repealed by Ben. Act III of 1876.</i>
1867	IX	... <i>Calcutta Municipality (amending Ben. Acts VI of 1863 and VI of 1866).</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1867	X	... <i>Settlement in Cuttack, etc.</i>	...	<i>Repealed by Act I of 1903.</i>
1867	XI	... <i>Calcutta Police and Pauper hospitals.</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1868	I	... <i>The Steam Boat Survey Amendment Act, 1868.</i>	...	<i>Repealed by Act VI of 1884.</i>
1868	II	... <i>District Municipal Improvement (amending Ben. Act III of 1864).</i>	...	<i>Repealed by Ben. Act V of 1876.</i>
1868	III	... <i>The Bengal Land-revenue Settlement Act, 1868.</i>	121	
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1868	VI	... <i>The District Towns Act, 1868</i>	<i>Repealed by Ben. Act V of 1876.</i>

viii CHRONOLOGICAL TABLE OF ENACTMENTS (1862—1889)—contd.

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1868	VIII	... <i>Repealing Act XXI of 1857 in Suburbs of Calcutta.</i>	...	<i>Repealed by Act XVI of 1874.</i>
1869	I	... The Bengal Cruelty to Animals Act, 1869.	137	
1869	II	... <i>The Chota Nagpur Tenures Act, 1869.</i>	...	<i>No application in West Bengal. Not printed.</i>
1869	III	... The Bengal Cruelty to Animals (Arrest) Act, 1869.	141	
1869	IV	... Port of Calcutta ...	...	<i>Repealed by Ben. Act V of 1870.</i>
1869	V	... Courts of Session ...	...	<i>Repealed by Act I of 1903.</i>
1869	VI	... Irrigation rates ...	...	<i>Repealed by Ben. Act III of 1876.</i>
1869	VII	... The Bengal Police Act, 1869	143	
1869	VIII	... <i>The Landlord and Tenant Procedure Act, 1869.</i>	...	<i>No application in West Bengal. Not printed.</i>
1870	I	... <i>The Calcutta Water-rate Act, 1870</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1870	II	... <i>Transport of Native Labourers</i> ...	...	<i>Repealed by Ben. Act VII of 1873.</i>
1870	III	... <i>Transfer of certain suits to Civil Courts.</i>	...	<i>Repealed by Act XII of 1873.</i>
1870	IV	... <i>The Court of Wards Act, 1870</i> ...	...	<i>Repealed by Ben. Act IX of 1879.</i>
1870	V	... <i>The Calcutta Port Improvement Act, 1870.</i>	...	<i>Repealed by Ben. Act III of 1890.</i>
1870	VI	... The Village Chaukidari Act, 1870 ...	147	
1870	VII	... <i>The Dacca Conservancy Act, 1870</i>	...	<i>Repealed by Ben. Act V of 1876.</i>
1871	I	... The Bengal Village Chaukidari Act, 1871.	169	
1871	II	... <i>The Bengal Land-revenue Sales (Amendment) Act, 1871.</i>	...	<i>Repealed by Ben. Act XVI of 1946.</i>
1871	III	... <i>Fees for Survey of Steamers</i> ...	...	<i>Repealed by Act VI of 1884.</i>
1871	IV	... The Puri Lodging-house Act, 1871	171	
1871	V	... <i>The Hooghly and Burdwan Drainage Act.</i>	...	<i>Repealed by Ben. Act VI of 1876.</i>

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Year.	No.	Short title.	Page.	Remarks.
1	2	3	4	5
Bengal Acts—<i>contd.</i>				
1871	VI	... <i>Calcutta Municipality (amending Ben. Act VI of 1863).</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1871	VII	... <i>Calcutta Port Improvement (amending Ben. Act V of 1870).</i>	...	<i>Repealed by Act I of 1903.</i>
1871	VIII	... <i>The Calcutta Markets Act, 1871</i> ...	...	<i>Repealed by Ben. Act IV of 1876.</i>
1871	IX	... <i>The Howrah Bridge Act, 1871</i> ...	...	<i>Repealed with effect from the 1st June, 1945, by notification No. 30, dated the 4th May, 1945, published in the "Calcutta Gazette" of the 10th May, 1945.</i>
1871	X	... <i>The District Road-cess Act, 1871</i> ...	...	<i>Repealed (in former Province of Bengal), by Ben. Act IX of 1880.</i> <i>Repealed (in Assam) by Act V of 1879.</i>
1871	XI	... <i>Census</i> ...	...	<i>Repealed by Act I of 1903.</i>
1872	I	... <i>Municipal Debt, Calcutta</i> ...	...	<i>Repealed by Ben. Act IV of 1876.</i>
1872	II	... <i>The Jute Warehouse and Fire Brigade Act, 1872.</i>	...	<i>Repealed by Ben. Act V of 1879.</i>
1872	III	... <i>Calcutta Port Improvement (amending Ben. Act V of 1870).</i>	...	<i>Repealed by Act X of 1889.</i>
1873	I	... <i>The Bengal Salt Act, 1873</i> ...	...	<i>Repealed by Act XX of 1937.</i>
1873	II	... <i>District Municipal Improvement, District Towns (amending Ben. Acts III of 1864 and VI of 1868).</i>	...	<i>Repealed by Ben. Act V of 1876.</i>
1873	III	... <i>Excise</i> ...	...	<i>Repealed by Ben. Act VII of 1878.</i>
1873	IV	... <i>The Bengal Births and Deaths Registration Act, 1873.</i>	191	
1873	V	... <i>Lighting-rate, Howrah</i> ..	...	<i>Repealed by Ben. Act III of 1884.</i>
1873	VI	... <i>The Bengal Embankment Act, 1873</i>	195	
1873	VII	... <i>The Labour Districts Emigration Act.</i>	...	<i>Repealed by Act I of 1882.</i>
1874	I	... <i>Police in Calcutta Suburbs (amending Ben. Act II of 1866).</i>	...	<i>Repealed by Act I of 1903.</i>

CHRONOLOGICAL TABLE OF ENACTMENTS (1862—1889)—*contd.*

Year.	No.	Short title.	Page.	Remarks.
1	2	3	4	5
Bengal Acts—<i>contd.</i>				
1874	II	... <i>The Calcutta Markets Amendment Act, 1874.</i>	...	<i>Repealed by Ben. Act IV of 1876.</i>
1875	I	... <i>Realisation of Arrears in Government Estates.</i>	...	<i>Repealed by Ben. Act VII of 1880.</i>
1875	II	... <i>Jute Warehouse (amending Ben. Act II of 1872).</i>	...	<i>Repealed by Ben. Act V of 1879.</i>
1875	III	... <i>Inspection of Steams-boilers (amending Ben. Act VI of 1864).</i>	...	<i>Repealed by Ben. Act III of 1879.</i>
1875	IV	... <i>Realisation of famine loans</i> ...	...	<i>Repealed by Act I of 1903.</i>
1875	V	... <i>The Bengal Survey Act, 1875</i> ...	229	
1876	I	... <i>The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.</i>	255	
1876	II	... <i>The Calcutta Police (Amendment) Act, 1876.</i>	...	<i>Repealed by Ben. Act XVI of 1946.</i>
1876	III	... <i>The Bengal Irrigation Act, 1876</i> ...	271	
1876	IV	... <i>The Calcutta Municipal Consolidation Act, 1876.</i>	...	<i>Repealed by Ben. Act II of 1888.</i>
1876	V	... <i>The Bengal Municipal Act, 1876</i>	...	<i>Repealed (in former Province of Bengal) by Ben. Act III of 1884.</i> <i>Repealed (in Assam) by Assam Act I of 1923.</i>
1876	VI	... <i>The Agrarian Disputes Act, 1876</i> ...	...	<i>Repealed by Act I of 1903.</i>
1876	VII	... <i>The Land Registration Act, 1876</i> ...	305	
1876	VIII	... <i>The Estates' Partition Act, 1876</i> ...	...	<i>Repealed by Ben. Act V of 1897.</i>
1877	I	... <i>Jute Warehouses (amending Ben. Acts II of 1872 and II of 1875).</i>	...	<i>Repealed by Ben. Act V of 1879.</i>
1877	II	... <i>The Provincial Public Works Act, 1877.</i>	...	<i>Repealed by Ben. Act IX of 1880.</i>
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1878	II	... <i>Extending Ben. Act VII of 1873 (Emigration to Assam) to Chittagong.</i>	...	<i>Repealed by Ben. Act I of 1882.</i>
1878	III	... <i>Powers of Settlement Officers</i>	<i>Repealed by Ben. Act VIII of 1879.</i>

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Year.	No.	Short title.	Page.	Remarks.
1	2	3	4	5
Bengal Acts—<i>contd.</i>				
1878	IV	Repealed by Ben. Act II of 1891.
1878	V	...	...	Repealed by Ben. Act XVI of 1946.
1878	VI	...	...	Repealed by Ben. Act III of 1884.
1878	VII	...	...	Repealed (in former Province of Bengal) by Ben. Act V of 1909. Repealed (in Eastern Bengal and Assam) by E. B. and A. Act I of 1910. Repealed in (Angul District) by Ben. Act V of 1909 as extended to Angul by Reg. 3 of 1913.
1878	VIII	...	...	Repealed by Ben. Act V of 1887.
1879	I	...	...	Repealed by Ben. Act VI of 1908.
1879	II	...	345	
1879	III	...	...	Repealed by Act V of 1923.
1879	IV	...	...	Repealed by Ben. Act III of 1890.
1879	V	...	...	Repealed by Ben. Act IV of 1883.
1879	VI	...	347	
1879	VII	...	...	Repealed by Act VI of 1884.
1879	VIII	...	349	
1879	IX	...	355	
1880	I	...	389	
1880	II	...	...	Repealed by Act II of 1886.
1880	III	Repealed along with Ben. Act IX of 1871. Vide section 1 of Ben. Act III of 1880.

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Year.	No.	Short title.	Page.	Remarks.
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1883	V	... The Darjeeling and Kurseong Municipal (Porters) Act, 1883.	563	
1884	I	... <i>The Puri Lodging-house (Extension) Act, 1884.</i>	...	<i>Repealed by Ben. Act XVI of 1946.</i>
1884	II	... The Calcutta Tramways (Amendment) Act, 1884.	571	
1884	III	... <i>The Bengal Municipal Act, 1884</i>	...	<i>Repealed (in Bengal) by Ben. Act XV of 1932.</i> <i>Repealed (in B. & O.) by B. & O. Act VII of 1922.</i> <i>Repealed (in Assam) by Assam Act I of 1923.</i>
1884	IV	... <i>The Howrah and Suburban Municipal Police Act, 1884.</i>	...	<i>Repealed by Ben. Act IV of 1908.</i>
1884	V	... <i>Calcutta Municipality (amending Ben. Act IV of 1876).</i>	...	<i>Repealed by Act I of 1903.</i>
1885	I	... The Bengal Ferries Act, 1885	573	
1885	II	... <i>Docks for Port of Calcutta</i>	...	<i>Repealed by Ben. Act III of 1890.</i>
1885	III	... The Bengal Local Self-Government Act of 1885.	585	
1886	I	... <i>The Bengal Village Chaukidari (Amendment) Act, 1886.</i>	...	<i>Repealed by Ben. Act XVI of 1946.</i>
1886	II	... <i>The Calcutta and Suburban Police (Amendment) Act, 1886.</i>	...	<i>Repealed by Ben. Act XVI of 1946.</i>
1886	III	... <i>The Bengal Municipal (Amendment) Act, 1886.</i>	...	<i>Repealed (in Bengal) by Ben. Act XV of 1932.</i> <i>Repealed (in B. & O.) by B. & O. Act VII of 1922.</i>
1887	I	... The Calcutta Survey Act, 1887	712	
1887	II	... The Bengal Vaccination (Amendment) Act, 1887.	...	Amending Act. Not printed.
1887	III	... <i>The Calcutta Port Improvement Act Amendment Act, 1887.</i>	...	<i>Repealed by Ben. Act III of 1890.</i>
1887	IV	... <i>The Chittagong Port Commissioners' Act, 1887.</i>	...	<i>Repealed by Ben. Act V of 1914.</i>
1887	V	... <i>The Chota Nagpur Rural Police Act, 1887.</i>	...	<i>No Application in West Bengal. Not printed.</i>
1888	I	... <i>Municipalities (amending Ben. Act III of 1884).</i>	...	<i>Repealed by Act I of 1908.</i>

xiv CHRONOLOGICAL TABLE OF ENACTMENTS (1862—1889)—concl'd.

Year.	No.	Short title.	Page.	Remarks.
1	2	3	4	5

Bengal Acts—concl'd.

1888	II	<i>The Calcutta Municipal Consolidation Act, 1888.</i>		<i>Repealed by Ben. Act III of 1899.</i>
1888	III	<i>The Howrah Bridge Act Amendment Act, 1888.</i>		<i>Repealed by Ben. Act XVI of 1946.</i>
1889	I	<i>The Inland Emigrants' Health Act, 1889.</i>		<i>Repealed by Act VI of 1901.</i>
1889	II	The Private Fisheries Protection Act, 1889.	721	
1889	III	<i>Loan to Corporation of Calcutta</i>		<i>Repealed by Act I of 1903.</i>
1889	IV	The Calcutta Burial Boards Act, 1889.	723	

The West Bengal Code

Volume II

BENGAL ACTS OF 1862 TO 1889, IN FORCE IN
WEST BENGAL.

Bengal Act III of 1862

[THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT, 1862.¹]

SHORT TITLE GIVEN	Act I of 1903. Act XII of 1873.
REPEALED IN PART	Act I of 1903. Ben. Act II of 1906. E. B. and A. Act I of 1907.
AMENDED . .	Ben. Act I of 1939.

(23rd April, 1862.)

An Act to amend ²[the Bengal Land-revenue Sales Act, 1859].

Whereas it is expedient to extend the period allowed for the registry of ³* * tenures ⁴* * and to alter the scale of fees on certain applications for the opening of separate accounts for shares or entire estates, for deposit of money or Government securities, and for registry of under-tenures and farms ;

Preamble.

It is enacted as follows :—

1. [*Repeal of ss. 45 and 59 of the Bengal Land-revenue Sales Act, 1859 (XI of 1859)*]. Rep. by the Repealing Act, 1873 (XII of 1873).

2. * * * * * *

¹Short Title.—This short title was given by the Amending Act, 1903 (I of 1903.)

Local Extent.—Since this Act is (*see* sec. 4, *post*) to be taken and read as part of the Bengal Land-revenue Sales Act, 1859 (XI of 1859), it has the same local extent as that Act.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 5, to the following Scheduled Districts, namely :—

the Western Duars, in the Jalpaiguri district, and
the Darjeeling district.

²These words and figures were substituted for “Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency)” by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³The word “under” which was repealed by the Amending Act, 1903 (I of 1903), is omitted.

⁴The words “and farms” were repealed, *ibid.*

⁵The first two paragraphs were repealed, *ibid.*

2 *The Bengal Land-revenue Sales Amendment Act, 1862.*

[Ben. Act III of 1862.]

(Sections 3, 4—Schedule of fees.)

Limitation.

Applications for the registry of tenures created after the passing of this Act must be made within three months of the date of the deed constituting the tenure.

Fees to be paid at rates mentioned in schedule.

3. The Collector on the part of the Government shall be entitled to demand from applicants under ¹* * sections 15 and 16, sections 40, 43 and 44, of Act XI of 1859², fees not exceeding the rates specified in the schedule to this Act annexed, which schedule shall be taken as part of this Act; and applications under the said sections shall not be received unless the said fees are tendered therewith.

Act to be read as part of Act XI of 1859.

4. This Act shall be taken and read as part of the said Act XI of 1859.²

Schedule of fees.

1. [Filing an application under section 10 or section 11 of Act XI of 1859 for opening a separate account for a share of an entire estate.]—Rep. in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906) and in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907).

2. For filing an application—

for a deposit of money of Government securities under section 15 of the said Act—half *per cent.* of the amount deposited;

for any interest on Government securities so deposited, drawn by the Collector—half *per cent.* of the amount drawn.

For filing an application for withdrawal of a deposit under section 16 of the said Act—half *per cent.* of the amount withdrawn.

3. For filing an application, under sections 40, 43 or 44 of the said Act, for the registration of an under-tenure or farm—

if the annual rent of the under-tenure or farm do not exceed 1,000 rupees—at the rate of five *per cent.* on the rent;

if the annual rent of the under-tenure or farm exceed 1,000 rupees—at the above rate up to 1,000 rupees, and at one *per cent.* on all above that amount.

¹The words and figures "sections 10 and 11," were repealed, in Western Bengal, by sec. 16(4) of the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906) and in Eastern Bengal, by sec. 16(4) of the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), and are omitted. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), and the latter Act has been extended to Western Bengal by the same Act.

²The Bengal Land-revenue Sales Act, 1859.

Bengal Act VI of 1862

(The Bengal Rent Act, 1862.)

CONTENTS.

PREAMBLE.

SECTION.

1. (*Repealed.*)
2. When Court may award to plaintiff additional damages not exceeding twenty-five *per cent.*
3. Court may award to defendant compensation not exceeding twenty-five *per cent.* on amount improperly sued for.
4. Under-tenant or *raiyat* may, after tender, pay into Court, without suit brought what he admits to be due to *zamindar*, etc.
Payment into Court to have effect of payment to *zamindar*, or person entitled.
5. Proceedings on payment into Court.
Payment to creditor.
6. Limitation of suit for further balances.
7. After suit brought, defendant may pay into Court, without costs, money tendered before.
Costs if plaintiff goes on with the suit.
8. If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum.
Costs if plaintiff goes on with the suit.
9. Survey and measurement of lands.
10. Measurement of lands, where it cannot be ascertained who are the persons liable to pay rent.
11. Measurements to be by *pargana* pole.
12. Form of plaint in suits for arrears of rent.
13. Order under section 58 of Act X of 1859 to set aside judgment to be final, but rejection of application to set it aside appealable.
14. Fees to agents and *mukhtars*.
15. Language of Collector's judgment.
16. Attachment before judgment.
17. Execution to issue at time of decree on oral application; afterwards on application in writing.
18. If person is arrested under section 145 of Act X of 1859, case to be disposed of at once.
19. Deputy Collectors' powers.
20. In what Court suits are to be instituted.
21. This Act to be read with Act X of 1859.

Schedule A.

Schedule B.

Bengal Act VI of 1862

(THE BENGAL RENT ACT, 1862¹.)

SHORT TITLE GIVEN	..	Act 1 of 1903.
SUPPLEMENTED	..	Ben. Act IV of 1867.
REPEALED IN PART	..	ACT VII of 1870.
REPEALED (Locally)	..	Act VIII of 1885.
AMENDED	..	Ben. Act I of 1939 ; Ben. Act III of 1939 ; Ben. Regn. IV of 1945.
ADAPTED	..	(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.

(14th May, 1862.)

An Act to amend ²[the Bengal Rent Act, 1859.]

Whereas it is expedient to amend Act X of 1859³, so far as the same relates to the Provinces subject to the Government of Bengal.

Preamble.

It is enacted as follows :—

1. *[Repeal of certain sections of Act X of 1859].—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).*

¹Short Title.—This short title was given by the Amending Act, 1903 (1 of 1903).

Legislative Papers.—The Bill (without any Statement of Objects and Reasons) was published in the *Calcutta Gazette*, 1862, p. 602 ; for Report of Select Committee, *see ibid*, p. 1319.

Local Extent.—Since this Act is (*see* section 21, *post*) to be “read with and taken as part of” Act X of 1859, it applied originally, like the latter Act, to the whole of the former Province of Bengal. It has, however, been repealed by the Bengal Tenancy Act, 1885 (VIII of 1885), in the whole of the former Province of Bengal except “the town of Calcutta, the Division of Orissa and the Scheduled Districts”.

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notifications extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

The only portion of the present State of West Bengal in which Ben. Act VI of 1862 appears to be effectually in force at the present time is the Darjeeling district.

²These words and figure were substituted for “Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal,” by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³The Bengal Rent Act, 1859.

(Sections 2, 3.)

When
Court may
award to
plaintiff
additional
damages
not
exceeding
twenty-five
per cent.

12. In any suit ** * for rent under Act X of 1859^a, if it shall appear to the Court that the defendant has without reasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution of the suit tendered such amount to the plaintiff or his duly authorized agent, or; in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per cent.* on the amount of rent decreed, as the Court may think fit.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of ⁴[six and a quarter] *per cent. per annum* from the date of decree until payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act X of 1859^a are recoverable.

Court may
award to
defendant
compensa-
tion not
exceeding
twenty-five
per-cent.
on amount
improperly
sued for.

13. In any suit ** * for rent under Act X of 1859^a if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five *per cent.* on the whole amount claimed by the plaintiff, as the Court may think fit; and such sum, with interest at the rate of ⁴[six and a quarter] *per cent. per annum* until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act X of 1859^a are recoverable.

¹In the application of this Act to the District of Darjeeling for the word "twenty-five" substitute the words "twelve and a half", *vide* sec. 4 of the Bengal Rent (Darjeeling District Amendment) Regulation, 1945 (Ben. Reg. IV of 1945).

²The words "hereafter to be brought" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

³The Bengal Rent Act, 1859.

⁴Substituted by the Schedule to the Bengal Rates of Interest Act, 1939 (Ben. Act III of 1939) for the word "twelve".

of 1862.]

(Sections 4,5.)

4. If any under-tenant or *raiyat* shall, at the *malcutcherry* for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the *zamindar* or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or *raiyat*, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the *zamindar* or other person aforesaid.

Under-tenant or *raiyat* may, after tender, pay into Court, without suit brought, what he admits to be due to *zamindar*, etc.

And such deposit shall, so far as the under-tenant or *raiyat* and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or *raiyat* of the amount deposited, to such *zamindar* or other person.

Payment into Court to have effect of payment to *zamindar*, or person entitled.

5. The Collector shall receive such deposit on the application of the under-tenant or *raiyat*, or his agent, made in writing ^{1*} * * and on the under-tenant or *raiyat*, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the forms, set forth in the Schedule A hereto annexed ; and the Collector shall give a receipt for the same.

Proceedings on payment into Court.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his *naib*, *gumastha* or other agent ; and in the absence of any such agent it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the *malcutcherry* for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Payment to creditor.

¹The words "upon paper bearing a stamp of such value as would be necessary on the institution of a suit for arrears of rent under section XXXVII of Act X of 1859 for an amount equal to that which it is intended to deposit" were repealed by sec. 2 and Part II of Schedule III of the Court-fees Act, 1870 (VII of 1870).

(Sections 6—9.)

Limitation
of suit for
further
balances.

6. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the person making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned.

After suit
brought,
defendant
may pay
into Court,
without
costs,
money
tendered
before.

7. The defendant in any suit under this Act or under X of 1859¹ instituted after the passing of this Act may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he shall consider to be due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

Costs if
plaintiff
goes on
with the
suit.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

If no
previous
tender
has been
made,
defendant
may pay
into Court
what he
admits to
be due
with costs
on that
sum.

8. The defendant in any suit under this Act or under Act X of 1859¹ * * * may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

Costs if
plaintiff
goes on
with the
suit.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree.

Survey and
measure-
ment of
lands.

9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.

¹The Bengal Rent Act, 1859.

*The words "instituted after the passing of this Act" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1908 (I of 1908).

of 1862.]

(Section 10.)

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or *raiyat*, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to inquire into the case in the manner provided for suits under Act X of 1859¹, and shall pass a decision either allowing or disallowing the measurement, and if the case so require, enjoining or excusing the attendance of any such under-tenant or *raiyat*.

If any under-tenant or *raiyat* after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings held in his absence.

10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid; and the Collector thereupon, and on the necessary costs being desposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same, or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures, and under-tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable.

Measure-
ment
of lands
where it
cannot be
ascertained
who are
the persons
liable to
pay rent.

The provisions of section 67 of Act X of 1859¹ shall apply to any proceeding of the Collector instituted under this section.

If after due enquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may declare the same to have lapsed to the party on whose petition he has made the inquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

¹The Bengal Rent Act, 1859.

(Sections 11—14.)

Save as aforesaid, the decision of the Collector on all matters inquired into and determined by him under this or the last preceding section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court.

Such appeals shall lie to the *Zila* Judge or to the *Sadar* Court, subject to the provisions and conditions contained in sections 160 and 161 of Act X of 1859¹.

Measurements to be by *pargana* pole.

11. All measurements made under this Act shall be made by the standard pole of measurement of the *pargana* in which the land is situated.

Form of plaint in suits for arrears of rent.

12. In any suit * * * for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the *pargana* or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year of which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any *raiayat*, the statement shall further specify the quantity of land, and, where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

Order under section 58 of Act X of 1859 to set aside judgment to be final, but rejection of application to set it aside appealable.

13. In all cases in which the Collector shall pass an order under section 58 of Act X of 1859¹ for setting aside a judgment, the order shall be final ; but in all appealable cases in which the Collector shall reject the application an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable :

Provided that the appeal be preferred within the time allowed for an appeal from such final decision. * * * * *

Fees to agents and *mukhtars*.

14. * * * * * In awarding costs to either party in any suit * * * under ⁵[Act X of 1859¹] or under this Act, it shall be competent for the Collector to award to such party, on

¹The Bengal Rent, Act, 1859.

²See foot-note 2 on page 6, *ante*.

³The words "and be written upon stamp paper of the value prescribed for petitions to the Court to which the appeal lies where a stamp is required for petitions" were repealed by sec. 2 and Part II of Schedule III of the Court-fees Act, 1870 (VII of 1870).

⁴The words "So much of section LXXI of Act X of 1859 as directs that no fee for any agent shall be charged as part of the costs of suit in any case under the Act is hereby repealed." were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁵Substituted for the words, "the said Act" by sec. 3 and the Second Schedule, *ibid*.

of 1862.]

(Sections 15—17.)

account of the fees of any agent or *mukhtar* employed by him, such a sum, not exceeding the rate of fee chargeable under the provisions of ¹[section 27 of the Legal Practitioners Act, 1879,] for pleaders in the Civil Courts, as the Collector may direct.

XVIII of
1879.

Language
of
Collector's
judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act X of 1859² in open Court.

The judgment shall be written in the vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced :

Provided that, if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attach-
ment
before
judgment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act VIII of 1859³ (*for simplifying the Procedure of the Courts of the Civil Judicature not established by Royal Charter*) are hereby extended to all suits
** * * under this Act or Act X of 1859³.

Execution
to issue at
time of
decree on
oral
applica-
tion ;
afterwards
on appli-
cation in
writing.

17. Process of execution in any suit ⁵* * under this Act or under Act X of 1859⁴ may be issued against either the persons or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

It may be issued on the oral application of the judgment-creditor, his agent or *mukhtar*, made at the time the judgment is pronounced or thereafter upon the written application of the judgment-creditor, his agent or *mukhtar* presented to the Court by which the judgment was given.

Process of execution against the person or moveable property of a debtor shall be in the Form E⁶ or the Form F⁶ contained in the schedule to Act X of 1859², or in a form as nearly resembling those forms as the circumstances of the case may admit.

¹Substituted for the words "section VII of Act I of 1846" by sec. 8 and the Second Schedule of the Amending Act, 1903 (I of 1903)

²The Bengal Rent Act, 1859.

³Act VIII of 1859 was repealed and re-enacted by Act X of 1877. The present Code of Civil Procedure is Act V of 1908, and this reference should now be taken to be made to .secs. 95 and 104(*g*) of, and rules 5 to 11 in Order XXXVIII and rule I(*g*) in Order XLII in Schedule I to, the latter Code—see sec. 158 thereof.

⁴See foot-note 2 on page 6, *ante*.

⁵The words "hereafter to be instituted" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁶These forms have not been reprinted with Act X of 1859, because they were repealed by the Amending Act, 1891, (XII of 1891). The present reference was, however, saved by section 3 of that Act.

(Sections 18—20.)

If person
is
arrested
under
section 145
of Act X
of 1859,
case to be
disposed
of at once.

18. If any person shall ¹* * be arrested under section 145 of the said Act X of 1859², he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is required.

In default of such security the person arrested shall be committed to the civil jail till the case is heard.

Deputy
Collectors'
powers.

19. All the powers vested in the Collector by any of the sections of this Act or of Act X of 1859² may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any subdivision of a district, or who is specially authorized by ³[the State Government] to receive such cases ; and all applications and reports allowed or required by the said Act X of 1859² or by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction or such special authority as aforesaid.

In what
Court suits
are to be
instituted.

20. Suits under this Act, or under Act X of 1859² shall be preferred in the revenue office of the district, or, when a subdivision of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office of the subdivision in which the cause of action shall have arisen, or, when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a subdivision, but who has been specially authorized by ³[the State Government] to receive such suits, then in the office of such last-mentioned Deputy Collector :

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any *taluk*, farm or other tenure, or any lands held under one lease or engagement, at or one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or subdivision, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district or subdivision or local limits in which the greater part of such lands is situate shall be held to be the district or subdivision or local limits in which the cause of action has arisen ; and, if any question shall be raised respecting

¹The words "after the date of the passing of this Act" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

²The Bengal Rent Act, 1859.

³The words "the State Government" were first substituted for the word "Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (I) of the Adaptation of Laws Order, 1950.

of 1862.]

(Section 21.—Schedule A.)

the district or subdivision or local limits within which the greater part of the lands is situate, the Board of Revenue, or, if all the lands be situate in one district, the Collector of the district, shall decide the question ; and such decision shall be conclusive on the point of jurisdiction.

21. This Act shall be read with, and taken as part of, Act X of 1859¹. ** * * *

This Act
to be
read with
Act X of
1859.

†SCHEDULE A.²

I, *A. B.*, of etc., do solemnly declare that I did personally (or by my agent *C. D.*) on the _____ day of _____ tender payment to *E. F.* at his *malcutcherry* (or at _____), the place where the rent of the lands at _____ held or cultivated by me under or from the said *E. F.* are usually payable, of the sum of _____ rupees _____ as and for the whole amount due from me in respect of the rent of the said lands from the month of _____ to the month of _____ both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that _____ to the best of my belief the sum of ** * * rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the rent of the said lands from the month of _____ to the month of _____, both inclusive, and that I owe the said *E. F.* no further sum on account of the rent of the said lands.

†If this declaration is made by an agent, it must be altered accordingly.

¹The Bengal Rent Act, 1859.

²The words "except as regards suits instituted thereunder before the passing of this Act" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

³Schedule A is referred to in sec. 5, *ante*.

⁴The word "Company's" was repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

(Schedule B.)†SCHEDULE B.¹**Court of the Collector (or Deputy Collector) of**

Dated the _____ day of _____ 18

To *E. F.*, of, etc.

With reference to the within declaration you are hereby informed that the sum of ** * rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that, if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

†This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

¹Schedule B is referred to in sec. 5, *ante*.

²See foot-note 4 on page 13, *ante*.

Bengal Act VII of 1862

(THE BENGAL LAND-REVENUE RESUMPTION ACT, 1862.)¹

SHORT TITLE GIVEN

.. Act I of 1903.

REPEALED IN PART

{ Act XII of 1873.
Act XVI of 1874.

(7th May, 1862.)

An Act to repeal section 30 of Regulation II, 1819 (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.)

Whereas by section 30 of Regulation II, 1819, it is enacted that certain suits preferred in a Court of Judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector ; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred and disposed of exclusively in the ordinary Courts of Civil Judicature ;

Preamble.

It is enacted as follows :—

1. [Repeal of sec. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (II of 1819).]—Rep. by the Repealing Act, 1873 (XII of 1873).

2. All suits preferred by proprietors, farmers or *talukdars* to resume the revenue of any land held free of assessment, as well as all suits preferred by individuals claiming to hold land exempt from the payment of revenue shall be instituted, heard and determined in and by the Courts of Civil Judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in Act VIII of 1859² (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), and not otherwise.

Suits for resumption of land held free of assessment and claims to hold land exempt from revenue to be tried in Civil Courts.

3, 4. [Application of Act to pending suits ; saving of proceedings had under sec. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (II of 1819), before passing of Act.]—Rep. by the Repealing Act, 1874 (XVI of 1874).

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LOCAL EXTENT.—Since this Act contains no "local extent" clause, it must be taken to extend to the whole of the former Province of Bengal.

²Act VIII of 1859 was repealed and re-enacted by Act X of 1877. The present Code of Civil Procedure is Act V of 1908, and this reference should now be taken to be made to the latter Code—see sec. 158 thereof.

Bengal Act IV of 1864

(THE BENGAL DISTRICTS ACT, 1864.)¹

SHORT TITLE GIVEN

.. Act I of 1903.

ADAPTED ..

(a) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.
(b) The Adaptation of Laws
Order, 1950.

(20th April, 1864.)

An act to amend Act XXI of 1836².

Whereas it is expedient to amend Act XXI of 1836² ;

Preamble.

It is enacted as follows :—

It shall be lawful for the Lieutenant-Governor^{3*} from time to time to alter the limits of existing *zilas* in any part of the⁴[States] ⁵[to which this Act extends].

Lieuten-
ant-Gover-
nor may
alter
limits of
existing
zilas.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LOCAL EXTENT.—This Act applies to the whole of the former Province of Bengal—*See* the enacting clause.

²The Bengal Districts Act, 1836.

³The words "of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴Substituted for the word "Provinces" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁵Substituted for the words "subject to the control of the said Provincial Government" by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

Bengal Act V of 1864

(THE CANALS ACT, 1864.)¹

REPEALED IN PART

.. { Act XII of 1873.
Act I of 1903.

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

ADAPTED

..

.. | (b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

(8th June, 1864.)

An Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal.

Whereas it is expedient to amend and consolidate the law relating to the collection of tolls on ** canals and lines of navigation ** *, and to authorize the collection of tolls on such other lines of navigation as may hereafter be rendered subject to the provisions of this Act, and to provide for the construction and improvement of lines of navigation ;

Preamble.

It is enacted as follows :—

1. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say :—

Interpretation.

the word “vessel” shall include any ship, barge, boat, raft, timber, bamboos or floating materials, propelled in any manner :

Vessel.

the words “line of navigation” shall mean any navigable channel subject to the provisions of this Act :

Line of navigation.

the word “channel” shall include any river, canal, *khal*, *nala* or waterway, whether natural or artificial :

Channel.

the word “person” shall include any company, association or body of persons, whether incorporated or not.

Person.

¹LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal (*see* the title), and applies to navigable channels notified under sec. 2 or authorized under sec. 3.

²The word “the” was repealed by sec. 3 and the Third Schedule of the Amending Act, 1903 (I of 1903).

³The words “specified in the Regulations and Acts in the Schedule to this Act annexed” were repealed, *ibid*.

(Sections 2—4.)

[Number and gender].—Rep. by sec. 3 and the Third Schedule of the Amending Act, 1903 (I of 1903).

What navigable channels may be rendered subject to provisions of Act.

2. It shall be lawful for the ¹[State Government] from time to time, by notification to that effect published in the ²[Official Gazette], to declare that the provisions of this Act shall apply to any navigable channel in such notification ;

and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel * * *

By whom navigable channels may be made.

3. It shall be lawful for the ¹[State Government] from time to time, to authorize any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such channel ; and any navigable channel made under this section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.

Mode of obtaining land for the purpose.

The ⁴[State Government] may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above mentioned works, under the provisions of * * * any ⁶* * * Act ⁷* * * in force for the taking possession of land for public purposes.

Bar of suit against Government.

4. No action or suit shall be brought against the ⁸[Government] in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section.

¹In the expression "Lieutenant Governor of Bengal" the words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4 (I) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the words "Provincial Government" were substituted for the words "Provincial Government of Bengal" by para. 3 (I) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948, and the word "State" was substituted for the word "Provincial" by para. 4 (I) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "*Calcutta Gazette*" by para. 4 (I) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The rest of section 2, was repealed by sec. 3 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁴The words "Provincial Government" were first substituted for the words "Government of Bengal" by para. 3 (I) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (I) of the Adaptation of Laws Order, 1950.

⁵The words and figures "Act 6 of 1857 (for the acquisition of land for public purposes) or of," in sec. 3, were repealed by sec. 3 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁶The word "other" was repealed, *ibid.*

⁷The words "that may now or hereafter be," were repealed, *ibid.*

⁸The word "Crown" was first substituted for the words "Secretary of State for India in Council, or the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4 (I) of the Adaptation of Laws Order, 1950.

of 1864.]

(Sections 5—9.)

5. Tolls, at such rates as shall be fixed in manner herein-after mentioned, shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act :

Tolls to be paid on lines of navigation subject to Act.

Provided that such tolls shall be payable only so long as such line of navigation shall be open.

Proviso.

6. The ¹[State Government] may fix, and from time to time alter, the rates at which such tolls shall be levied :

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the ²[*Official Gazette*], for such period as the said ³[State Government] may fix, of the intention to levy or alter such toll, and of the rate or place at which such toll is to be levied.

State Government may fix and alter rates of tolls.

7. Notification of the rates of toll and of the places of collection shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdu and Bengali languages.

Publication of rates of toll at every toll-house.

8. The ¹[State Government] shall appoint such persons as ⁴[it] may think fit to collect tolls under this Act, and it shall be lawful for any person, so appointed to farm the collection of tolls to any other person, with the sanction of the ⁵[State Government] or to employ any other person in such collection.

State Government to appoint persons to collect tolls, who may farm collection.

The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect and be authorized to receive them, in the like manner as any person appointed as aforesaid.

9. If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same ;

Payment of tolls how enforced.

and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf ;

and on receipt of this report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

¹ See foot-note 1 on page 20, *ante*.

² See foot-note 2 on page 20, *ante*.

³ The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴ This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ See foot-note 4 on page 20, *ane*.

(Sections 10, 11.)

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale ; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown at or before the time of sale to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.

Penalty
for evasion
of toll.

10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.

Rules
relating to
lines of
navigation.

11. It shall be lawful for the ¹[State Government] from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act ; and the ²[State Government] may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters :—

- for determining the tonnage of vessels and their measurement ;
- for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast ;
- for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time ;
- for regulating the mode in which and the places at which tolls are to be levied under this Act ;
- for the removal of sunken vessels and obstructions ; and
- for the storing and disposal of the cargo of vessels seized under this Act.

¹See foot-note 1 on page 20, *ante*.

²See foot-note 3 on page 21, *ante*.

of 1864.]

(Sections 12—15.)

12. Rules shall not be passed until the same shall have been published in the ¹[*Official Gazette*] for a period of six weeks, and after that time the rules shall be published as passed, with such alterations (if any) as to the ²[State Government] shall seem fit.

Publication of such rules.

The rules so published as passed shall not have effect until the expiration of two weeks after such last publication ; and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules, in the English, Urdu and Bengali languages, shall be exhibited to public view at every place where toll is collected.

13. It shall be lawful for the ³[State Government] to appoint any person to be the supervisor of any line of navigation subject to the provisions of this Act ; and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

Appointment of supervisor with power to remove obstruction.

14. Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.

Mode of exercising such power.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in section 9 of this Act.

15. Whenever in the opinion of such supervisor the construction of any bandel or other contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of

Supervisor may forbid construction of bandels, etc.

¹See foot-note 2 on page 20, *ante*.

²See foot-note 1 on page 20, *ante*.

³See foot-note 4 on page 20, *ante*.

[Ben. Act V of 1864.]

(Sections 16—20—Schedule).

such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed at some conspicuous place in the nearest village, forbid the construction of such bandel or other contrivance.

Penalty
for causing
obstruction
to line of
navigation.

16. Any person who shall wilfully cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.

17. [Recovery of fines].—Rep. by sec. 3 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

Offences
by whom
punishable.

18. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed ;

and, such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits ;

and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19. [Indemnity for certain acts done heretofore in the collection of tolls, etc.].—Rep. by the Repealing Act, 1873 (XII of 1873).

Short
title.

20. This Act may be cited as the Canals Act, 1864.

Schedule of Regulations and Acts—Repealed.

[Rep. by sec. 3 and the Third Schedule of the Amending Act, 1903 (1 of 1903).].

Bengal Act VIII of 1865

[THE BENGAL RENT RECOVERY (UNDER-TENURES) ACT, 1865]¹

SHORT TITLE GIVEN	. - Act I of 1903.
REPEALED IN PART	. . Act XII of 1873. Act I of 1903.
AMENDED	Ben. Act IV of 1945. West Ben. Act XII of 1947.
ADAPTED	The Adaptation of Laws Order, 1950.

(7th June, 1865.)

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

Whereas doubts have arisen, in consequence of the repeal of section 16 of Regulation VII of 1832,² as to the authority by whom *patni taluks* and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VIII of 1819³ are to be sold for arrears of rent due to the proprietor on account thereof ;

Preamble.

And whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears ;

It is enacted as follows :—

1. The word “Collector” as used in this Act, includes “[any officer vested with the powers of a Collector of a district].”

“Collector”
defined.

¹SHORT TITLE.—This short title was given by the Amending Act, 1908 (1 of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see “*Calcutta Gazette*”, 1865, p. 287.

LOCAL EXTENT.—This Act contains no local extent clause, but it would appear from section 3 that it was intended to extend to the same territory as the Bengal Patni Taluks Regulation, 1819 (VIII of 1819), namely, the whole of the former Province of Bengal.

PARTIAL REPEAL IN EASTERN BENGAL.—Sections 4 to 17 and the Schedule appear to be obsolete in Eastern Bengal in consequence of the repeal of the Bengal Rent Act, 1859 (X of 1859), therein by the Bengal Tenancy Act, 1885 (VIII of 1885) ; but see the saving in sec. 2 (3) of the latter Act.

²Ben. Reg. VII of 1832 was finally repealed by the Bengal Civil Courts Act, 1871 (VI of 1871),

³The Bengal Patni Taluks Regulation, 1819.

⁴Substituted by the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947) for “all officers exercising the full powers of a Collector of a district”,

2. [*Laws repealed.*—Rep. by the Repealing Act, 1873 (XII of 1873).]

Sale by
whom
conducted.

3. The sale for the recovery of arrears of rent of *patni taluks* and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation VII of 1819^a shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act VI of 1853,^b the lands lie ⁴[or by such other officer not below the rank of a Deputy Collector as may be duly authorised in this behalf by the State^c Government]; and all acts preparatory to, or connected with, the sale of such under-tenures as aforesaid which, by Regulations VIII 1819^a and 1 of 1820^d the Judge is required to perform, shall be performed by the said Collector ⁷[or other officer as aforesaid].

Publica-
tion of
notice of
sale.

⁸4. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act X of 1859^e, shall have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is in course of execution shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than 20 days from the hanging up of the said notice in the Court in which the decree is in course of execution.

Contents
of notice
of sale.

⁹5. The said notice shall specify, in the words issued in the plaint in the suit in which the decree was made, the name of the village, estate and *pargana*, or other local division, in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

How sale
may be
stopped.

⁶6. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting

^aThe number clause, which was repealed by sec. 8 and the Third Schedule of the Amending Act, 1903 (I of 1903), is omitted.

^bThe Bengal Patni Taluks Regulation, 1819.

^cThe Rent Recovery Act, 1853.

^dInserted by the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

^eThe word "State" was substituted for the word "Provincial" by para. 4 (I) of the Adaptation of Laws Order, 1950.

^fThe Bengal Patni Taluks Regulation, 1820.

^gAdded by the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

^hAs to the repeal of sections 4 to 6 in Eastern Bengal, see foot-note on page 25, *ante*.

ⁱThe Bengal Rent Act, 1859.

The Bengal Rent Recovery (Under-tenures) Act, 1865. 27
of 1865.]

(Sections 7—11.)

holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place ; and the provisions of section 13 of Regulation VIII of 1819¹, for the recovery of sums paid by other than the defaulting-holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

^a7. The under-tenure shall be sold to the highest bidder in open Court.

Sale to highest bidder.

^a8. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency notes, twenty-five *per cent.* of the amount of his bid ; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

Deposit by purchaser.

^a9. The full amount of the purchase-money shall be made good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight ; or, if the eighth day be a Sunday or other close holiday, then on the first office day after the eighth day ; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the said under-tenure may be subsequently sold.

Deposit forfeited if balance of purchase-money not paid up.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

^a10. The provisions of all the sections of this Act with regard to sales shall also be applicable to all re-sales under this Act which may be rendered necessary by the default of any purchaser.

Provisions as to sales to apply to re-sale.

^a11. When the purchase-money shall have been paid in full, the officer holding the sale shall give the purchaser a certificate in the form prescribed in the schedule annexed to this Act ; and shall further, on the purchaser making application and depositing the requisite costs, depute an officer or *amin* to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein.

Certificate and possession to be given to purchaser on payment in full.

^aThe Bengal Patni Taluks Regulation, 1819.

^aAs to the repeal of sections 7 to 11 in Eastern Bengal, see foot-note on page 25, *ante*.

(Sections 12—16.)

Proceeds
of sale
how dealt
with.

^{112.} From the proceeds of the sale of the under-tenure, the officer holding such sale shall repay to the judgment-creditor the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of the defaulting holder of the under-tenure.

Appeal.

^{113.} An appeal shall lie to the Collector from any proceedings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed.

Power of
revision.

^{114.} No appeal as of right shall lie from any order passed in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and pass thereon such orders as they may think proper.

Recovery
by pur-
chaser of
purchase-
money
if sale set
aside.

^{115.} If any sale of an under-tenure shall, under either of the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct.

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

Purchaser
to acquire
the under-
tenure
with
certain
excep-
tions, free
of incum-
brances.

^{116.} The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created or by the subsequent written authority of the person who created it, his representatives or assignees:

Provided that nothing herein contained shall be held to entitle the purchaser to eject *khudkasi raiyats* or resident and hereditary cultivators, nor to cancel *bona fide* engagements made with such class of *raiya*ts or cultivators aforesaid by the late incumbent of the under-tenure or his representatives, except it be proved, in

¹As to the repeal of sections 12 to 16 in Eastern Bengal, see foot-note on page 25, *ante*.

of 1865.]

(Sections 17,18—Schedule.)

a regular suit, to be brought by such purchaser for the adjustment of his rent that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.

¹17. The purchaser of an under-tenure sold under this Act shall apply to the *zamindar* or other landholder, within fifteen days from the day of sale, to have his name registered in the *zamindar* or other landholder's books as the purchaser : and shall execute a *kabuliyat* on the same terms and conditions on which the under-tenure was held by the defaulter ; and, if such application be not made within fifteen days, it shall be lawful for the *zamindar* or other landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act X of 1859.²

*Zamindar
how to
proceed if
purchaser
do not
register.*

18. [*Indemnity.*—*Rep. by the Repealing Act, 1873 (XII of 1873).*]

¹SCHEDULE.

(Referred to in section 11.)

I certify that *A. B.* has purchased, under Act 8 of 1865, the under-tenure (*as specified in the notice of sale*), and that his purchase took effect on the day of
(*being the day after that fixed for the last day of payment*).

(Signed) *C. D.*

Collector.

¹As to the repeal of section 17 and the Schedule in Eastern Bengal, see foot-note on page 25, *ante*.

²The Bengal Rent Act, 1859.

Bengal Act II of 1866

The Calcutta Suburban Police Act, 1866.

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 - (11) driving cart with insufficiently greased wheels ;
 - (12) (*Repealed.*) ;
 - (13) Affixing bills or otherwise defacing houses, etc. ;
 - (14) bathing, etc., in public street or aqueduct ;
 - (15) obstructing persons at bathing places ;
 - (16) (*Repealed.*) ;
 - (17) beggars ;
 - (18) exposing person, etc.
- 40A. (*Repealed.*)
41. Penalty for drunkenness, or riotous or indocent behaviour, in public,
- 41A. (*Repealed.*)
42. Stray dogs,
- 42A. Restrictions as to bringing, keeping or possessing dangerous animals.
43. Power to arrest without warrant.
- 43A. (*Repealed.*)
44. Arrest of person committing offence with respect to person or property of another.
45. Persons taken into custody by Police-officer without warrant may be detained in police-station until brought before Magistrate or bailed.
46. Power to take recognizance at police-station.
47. Condition of recognizance.
- 47A. Power of Commissioner of Police to require attendance and obtain statements of witnesses.
- 47B. Power to search for persons wrongfully confined.
- 47C. Procedure in making searches.
48. Recovery and appropriation of fines.
Imprisonment in lieu of fine.
- 48A. Police to take charge of unclaimed movable property.
- 48B. Disposal of such property.
49. (*Repealed.*)
- 49A. Public notice how to be given.
- 49B. Consent, etc., of Commissioner of Police or Police-officer how to be proved.
- 49C. Stamping of signature.
50. Powers of Deputy Commissioner.
51. Interpretation.
52. (*Repealed.*)

FORM OF CERTIFICATE

Schedule of fees.

Bengal Act II of 1866

(THE CALCUTTA SUBURBAN POLICE ACT, 1866)¹

SHORT TITLE GIVEN	. . . Act I of 1903. Act I of 1903. Act XXXVIII of 1920. Ben. Act II of 1867. Ben. Act I of 1869. Ben. Act I of 1874. Ben. Act I of 1890. Ben. Act VI of 1905. Ben. Act IV of 1913. Ben. Act XIII of 1923. Ben. Act VI of 1933. Ben. Act VII of 1943. Ben. Act II of 1886. Ben. Act II of 1895. Ben. Act V of 1915. Ben. Act VII of 1919. Ben. Act I of 1929. Ben. Act I of 1939. Ben. Act XIV of 1939. Ben. Act I of 1943. West Ben. Act XXXV of 1948. West Ben. Act XIX of 1952. West Ben. Act XXIV of 1955. West Ben. Act XX of 1957. West Ben. Act XV of 1962. Ben. Act III of 1907. Ben. Act III of 1910. (a) The Government of India (Adaptation of Indian Laws) Ordre, 1937. (b) The India (Adaptation of Existing Indian Laws) Order, 1947. (c) The Adaptation of Laws Order, 1950.
REPEALED IN PART	
AMENDED	
REPEALED IN PART AND AMENDED	
ADAPTED	

(21st March, 1866.)

An Act to provide for the better regulation of the police within the suburbs of the town of Calcutta.

WHEREAS it is expedient to exclude the suburbs of the town of Calcutta from the general police-district of Bengal, and to make provision for the better regulation of the police within the limits so excluded ;

Preamble.

¹SHORT TITLE.—This short title was given by the Amending Act. 1903 (I of 1903), Sch. I.

LOCAL EXTENT.—This Act extends only to the suburbs of the town of Calcutta, see sec. 1.

(Sections 1-3.)

It is enacted as follows :—

Suburbs
may be
excluded
from
general
police-
district.

1. It shall be lawful for the ¹[State Government] of ²[West Bengal] to exclude the suburbs of the town of Calcutta, or any portion thereof, from the general police-district of the ³[States] subject to ⁴[its] control ; and the limits of the tract of country so excluded shall be defined in a notification to be published in the ⁵[Official Gazette], and the operation of this Act shall be confined to such limits⁷ :

Provided that it shall be lawful for the said ¹[State Government] from time to time to alter such limits by such ⁶notification as aforesaid.

Police for
suburbs.

2. For the suburbs of the town of Calcutta so defined as aforesaid there shall be a police-force, which shall consist of such number of officers ⁷* *, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the ¹[State Government] of ²[West Bengal].

Police to
be under
control of
Commis-
sioner of
Police,
Calcutta.

3. The police-force of the suburbs of the town of Calcutta shall be under the exclusive direction and control of the Commissioner of Police for the town of Calcutta, who may from time to time, subject to the ⁸[control] of the said ¹[State Government], frame such orders and regulations as he shall deem expedient relative to the general Government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other necessities to be furnished to them, and all such other orders and regulations relative to the said police-force as the said Commissioner shall

¹The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²Substituted for the word "Bengal" by para. 4 (2) of the India (Adaptation of Existing Indian Laws) Order, 1947.

³Substituted for the word "Provinces" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the word "his" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵These words were substituted for the words "Calcutta Gazette" by paragraph 4(1), *ibid*.

⁶For notification under sec. 1 defining the limits of the suburbs of Calcutta, see the *Calcutta Gazette* of the 12th September, 1940, Part I, page 2443.

⁷The words "and men" were repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁸Substituted for the word "approbation" by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act VII of 1919).

of 1866.]

(Sections 3A, 3B and 3C.)

from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

¹3A. (1) Subject to the provisions of this Act, the State Government may make rules relating to recruitment, conditions of service, disciplinary proceedings and punishments, in respect of members of the subordinate ranks of the Police-force.

Power of State Government to frame rules.

West Ben. Act XV of 1962.

(2) Any rules, orders or regulations made before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962 by any authority in respect of the aforesaid matters shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been validly made and shall continue in force until other provisions are made in this behalf.

¹3B. (1) Subject to such rules as the State Government may make in this behalf, the Commissioner of Police shall have power to appoint all

Appointment, dismissal and punishment of subordinate ranks of the Police-force.

In section 3B, in the proviso to sub-section (1), for the words "to one of his deputies", substitute the words "to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police".

(substituted by West Ben. Act XXVII of 1969, section 8.)

[No. 8, dated the 1st October, 1973.]

(2) Subject to the provisions of sections 4 and 5, the appointing authority or an officer not lower in rank than the appointing authority, shall be competent to inflict all punishments on the members of the subordinate ranks of the Police-force in disciplinary cases.

¹3C. Notwithstanding anything contained elsewhere in this Act or any decision of any court to the contrary, all appointments made by the Commissioner of Police or any other authority subordinate to him, all orders of dismissal or removal from office passed by any such appointing authority or other authority not subordinate to such appointing authority and all orders inflicting any other punishment passed by any authority, before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962, in respect of members of the subordinate ranks of the Police-force shall be deemed to be and to have always been validly passed as if the said Act were in force when such appointments were made or such orders were passed.

Validity of appointment, dismissal and punishment of subordinate ranks in certain cases.

¹Sees. 3A, 3B and 3C were inserted by sec. 8 (a) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962), and deemed always to have been inserted.

[Ben. Act II*(Sections, 4, 4A.)*

Suspension or dismissal or other punishment of subordinate ranks of police force by Commissioner.

¹⁴4. ³(1) The Commissioner of Police may, at any time, suspend or dismiss ³[or inflict any other punishment on] any member of the subordinate ranks of the police force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

⁴(2) A Police-officer shall not by reason of being suspended from office cease to be a Police-officer. During the term of such suspension the power, privileges and duties conferred or imposed upon him as a Police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties, and to the same authorities, as if he had not been suspended.

Duties of Police-officers.

⁵4A. (1) It shall be the duty of every Police-officer—

- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors ;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences, or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences, within his view ;
- (c) to the best of his ability, to prevent the commission of public nuisances ;
- (d) to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension there is sufficient reason ;
- (e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;

⁴Section 4 was re-numbered as sub-section (1) of that section by sec. 3 (1) of the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act VII of 1919).

³This sub-section (1) was substituted for the former sub-section (7) by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵Inserted by sec. 3 (1) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962) and deemed always to have been inserted.

⁴Sub-section (2) was added by sec. 3(2) of the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act VII of 1919.)

³Section 4A was inserted by sec. 5 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Section 4A.)

- (f) to discharge such duties as are imposed upon him by any law for the time being in force ;
 - (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves ;
 - (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick and, while guarding or conducting any such person to have due regard to his condition ;
 - (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
 - (j) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
 - (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
 - (l) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public ;
 - (m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets ;
 - (n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship ;
 - (o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or any such boat ; and
 - (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.
- (2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.
- (3) A Police-officer may restrain or remove any person resisting, or refusing to conform to, any such direction as aforesaid.

(Sections 5—8A.)

Commissioner may fine for lesser breaches of discipline.

5. For any lesser breach of discipline or other misconduct not requiring the suspension or dismissal of the offender, a member ¹[of the subordinate ranks of the police-force] may be fined by the Commissioner any sum not exceeding one-half of his monthly pay.

6. *(Additional penalties for neglect of duty, etc.)—Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).*

Police not to resign without notice.

7. No member ¹[of the subordinate ranks of the police-force] to be enrolled under this Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said force, and two months' notice if a member of any other branch ;

and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

On enrolment, Police-officer to receive certificate.

8. Every member of the police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Member of subordinate ranks of the police-force prohibited from other employment.

²8A. ³[A member of the subordinate ranks of the police-force] shall not, without the permission of the Commissioner of Police, either as principal or agent,—

- (a) engage in any trade, or
- (b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs of Calcutta or of any interest therein, or
- (c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

¹These words were substituted for the words "of the police-force" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Section 8A was inserted by sec. 7 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³These words were substituted for the original words by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1866.]

(Sections 8B—8D.)

18B. Any Police-officer who—

Offences
by Police-
officers.

- (a) contravenes any provision of the last foregoing section,
or
- (b) is guilty of cowardice, or
- (c) is guilty of any wilful breach or neglect of any provision
of law or of any rule or order which it is his duty as
such Police-officer to observe or obey, or
- (d) is guilty of any violation of duty for which no
punishment is expressly provided by any other law
for the time being in force,

shall be liable to imprisonment, with or without hard labour,
for a term which may extend to three months, or to fine which
may extend to one hundred rupees and which may be deducted
from any salary due to him, or to both.

18C. Any Police-officer who—

Vexatious
entry,
search,
seizure,
arrest,
detention,
etc., by
Police-
officers.

- (a) without lawful authority or reasonable cause, enters or
searches, or causes to be entered or searched, any
building, vessel, tent or place, or
- (b) vexatiously and unnecessarily seizes the property of
any person, or
- (c) vexatiously and unnecessarily detains, searches or arrests
any person, or
- (d) vexatiously and unnecessarily delays forwarding any
person arrested to a Magistrate or to any other
authority to whom he is legally bound to forward
such person, or
- (e) offers any unnecessary personal violence to any person
in his custody, or
- (f) holds out to an accused person any threat or promise
not warranted by law,

shall be liable to imprisonment, with or without hard labour,
for a term which may extend to six months, or to fine which
may extend to five hundred rupees, or to both.

18D. Any person who knowingly makes a false statement
or uses a false document, for the purpose of obtaining
for himself or any other person employment or release from
employment as a Police-officer, shall be liable to imprisonment,
with or without hard labour, for a term which may extend to
three months, or to fine which may extend to one hundred
rupees, or to both.

False
statement
to obtain
employ-
ment or
release.

¹Sections 8B and 8C were inserted by sec. 7 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Section 8D was inserted by sec. 8 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

[Ben. Act II**(Sections 9—14A.)**

Penalty
for dis-
missed
members
not
delivering
up cloth-
ing, etc.

9. Every member of the police-force who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be delivered over, wherever the same may be found.

10. (*Superannuation Fund.*)—*Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. Act VI of 1905).*

11. (*Disposal of proceeds of certain fines, etc.*)—*Rep. by sec. 3 of the Calcutta and Suburban Police (Superannuation Fund) Act, 1890 (Ben. Act I of 1890).*

Appoint-
ment of
special
constables.

12. The Commissioner of Police may, of his own authority, appoint ¹[special constables] to assist on any temporary emergency.

Powers of
special
constables.

13. Every ²[special constable] so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

Penalty
for special
constable
neglecting
or refusing
to serve,
etc.

14. If any person, being appointed a ²[special constable] as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Special
Police
Officers.

³14A. (1) the suburbs of

3. For sub-section (1) of section 14A of the Calcutta Suburban Police Act, 1866, the following sub-section shall be substituted:—

(2) Such force as may be appointed exceeding such number as the State Government

“(1) Subject to the control of the State Government, the Commissioner of Police may raise a force of special police officers and a force of Traffic Wardens for the suburbs of the town of Calcutta and may also disband such a force without assigning any reason or serving any notice and without payment of any compensation or damages whatsoever to any member of the force.”

¹Substituted for Calcutta and Suburban Police Act, 1955).

²Substituted for

³Inserted by sec. 4. *ibid.*

In section 14A,—

- (a) in the proviso to sub-section (2), for the words "to any Deputy Commissioner of Police", substitute the words "to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police";
- (b) in sub-section (5), for the words "the Deputy Commissioner of Police", substitute the words "the Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police".

(Substituted by West Ben. Act XXVII of 1969, section 9.)

(No. 8, dated the 1st October, 1973.)

- (e) allocation of duties and hours of duty,
- (f) promotion, discipline and punishment, and
- (g) leave and resignation

of special police officers appointed under this section and all other matters whatsoever relating to their organization and governance and to their conditions of service.

(4) A special police officer appointed under this section shall, except in so far as it is not inconsistent with the other sub-sections of this section and any regulations framed under sub-section (3), have the same powers, privileges and protection and the same duties and shall be liable to the same penalties as ordinary officers of police.

(5) A special police officer appointed under this section shall be a part-time officer and shall not be entitled to any remuneration for his services as such special police officer. His appointment may, without prejudice to the exercise of any powers of punishment conferred by any regulations under sub-section (3), be at any time cancelled by the Commissioner of Police or the Deputy Commissioner of Police, as the case may be, after giving him one month's notice in writing. He shall not be entitled to claim any compensation or damages for such cancellation of his appointment.

15. The ¹[State Government] may also, if ²[it] shall think fit, on the application of any person, showing the necessity of it, appoint any additional number of Police-officers to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders

Appointment of additional Police-officers on application of private persons.

¹The words "Provincial Government" were first substituted for the words "Commissioner of Police" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (7) of the Adaptation of Laws Order, 1950.

²This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act II

(Sections 15A, 15B.)

of the ¹[Commissioner of Police], and for such time as ²[it] shall think fit ; and every such Police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the Police-officers belonging to the ordinary force :

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Police-officers so appointed at his expense, shall be discontinued, and thereupon the ³[State Government] shall discontinue such additional Police-officers ; and all moneys received ⁴[by the State Government] for the payment of any such additional Police-officers shall be accounted for by ⁵[it].

Constitu-
tion of
divisions
and
sections.

⁶15A. (1) Subject to the control of the ⁷[State] Government, the Commissioner of Police shall, by order,—

(a) constitute such and so many police divisions as he thinks fit, and

(b) sub-divide such divisions into such and so many sections as he thinks fit, and

(c) define the limits and extent of such division and sections.

(2) Every such order shall be published in the ⁸[Official Gazette] and in the manner prescribed by this Act for the publication of public notices.

Wrong-
fully enter-
ing or
remaining
in or on
building,
land,
vehicle,
etc.

⁹15B. Whoever, without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises or any land or ground attached thereto, or any ground, building, monument or structure belonging to the ¹⁰[Government] or appropriated to public purposes, or any vehicle, boat or vessel,

¹Substituted for the words "said Commissioner" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²This word was substituted for the word "he" by paragraph 5(2), *ibid.*

³The words "Provincial Government" were first substituted for the words "said Commissioner" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴The words "by the Provincial Government" were first substituted for the words "by the Commissioner" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵This word was substituted for the word "him" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶Section 15A was inserted by sec. 9 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁷Substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁸See foot-note 5 on page 34, *ante*.

⁹Section 15B was inserted by sec. 10 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

¹⁰The word "Crown" was first substituted for the word "Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1866.]

(Sections 16—17C.)

shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

16. A Police-officer may arrest without a warrant—

any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another ;

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, * *¹ yard, thoroughfare or other place, who shall not give a satisfactory account of himself ;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid ;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein ; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking ;

and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

²17. (Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases.)—Rep. by sec. 11 of the Calcutta Suppression of Immoral Traffic Act, 1923 (Ben. Act XIII of 1923).

³17A. (Penalty for breach of order.)—Rep. by sec. 11 of the Calcutta Suppression of Immoral Traffic Act, 1923 (Ben. Act XIII of 1923).

⁴17B. (Power of owner or lessor to determine lease or tenancy.)—Rep. by sec. 11 of the Calcutta Suppression of Immoral Traffic Act, 1923 (Ben. Act XIII of 1923).

⁵17C. (1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct the discontinuance in any place of music or singing, the beating of drums or tomtoms, and the blowing or sounding of horns or other noisy instruments if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood :

Apprehension and punishment of reputed thieves, etc.

Power to order discontinuance of music in certain cases.

Provided that in any case where the discontinuance of music, or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved and

¹The word "road," was repealed by sec. 84 of the Calcutta Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²(Sections 17, 17A and 17B since repealed) and section 17C were substituted for the original section 17 by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act III of 1907).

[Ben. Act II]

(Section 17D.)

if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of police shall give effect to any such alteration or reversal :

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

Power to prohibit, restrict, regulate or impose conditions on the use of microphones, etc.

¹17D. (1) (a) If, in the opinion of the Commissioner of Police, it is necessary so to do for the purpose of preventing annoyance to, or injury to the health of, the public or any section thereof, or for the purpose of maintaining public peace and tranquillity, he may, by order prohibit, restrict, regulate or impose conditions on, the use or operation in any area within the suburbs of the town of Calcutta or in any vehicle within such area, of microphones, loudspeakers, or other apparatus for amplifying human voice or amplifying music or other sounds.

(b) The State Government may, on its own motion or on the representation of any person or persons aggrieved, modify, alter or cancel any such order.

(2) A Police-officer, not below the rank of a Sub-Inspector or a Sergeant, may take such steps or use such force as may be reasonably necessary for securing compliance with any order made under clause (a) of sub-section (1) or any such order as modified or altered by the State Government under clause (b) of that sub-section and may seize any microphone, loudspeaker or other apparatus used or operated in contravention of the order.

(3) A Police-officer referred to above, who seizes any microphone, loudspeaker or other apparatus under sub-section (2), may also at the same time seize any vehicle in which such microphone, loudspeaker or other apparatus is being carried or conveyed or is being kept at that time :

Provided that any officer of the police-station within the limits of which the vehicle is seized not below the rank of a Sub-Inspector may release such vehicle on a bond for such sum, not exceeding five hundred rupees, as he deems reasonable, being executed by the owner of the vehicle in favour of the State Government to produce the vehicle at the time of the investigation or the trial, and to surrender the vehicle, if directed to be forfeited under sub-section (4).

¹Section 17D was inserted by sec. 8 of the Calcutta and Suburban Police (Amendment) Act, 1957 (West Ben. Act XX of 1957).

of 1866.]

(Sections 18, 19.)

(4) Any person who contravenes any order of the Commissioner of Police made under clause (a) of sub-section (1) or who contravenes any such order as modified or altered by the State Government under clause (b) of that sub-section, shall be punished with a fine which may extend to one hundred rupees and the court trying an offence under this section may also direct the forfeiture of any microphone, loudspeaker or other apparatus seized under sub-section (2) or any vehicle seized under sub-section (3) or released under the proviso to that sub-section.

(5) The provisions of this section shall be in addition to and not in derogation of the powers conferred by any other section of this Act.

18. Whoever has or keeps any hotel, tavern, punch-house, ale-house, *arrack* or *toddy* shop, or place for the sale or consumption of *ganja*, *chandu* or other preparation of opium, hemp or other intoxicating drug, plant or substance,

Penalty
for keeping
hotel, etc.,
without
license.

¹[or has or keeps any lodging-house whether provisions, liquors or refreshments are sold or consumed therein or not,

or has or keeps any coffee-house, boarding-house, eating-house, other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retained therein or procured elsewhere).]

without a license to be obtained in the manner hereinafter mentioned,

²[shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both and for a second or subsequent offence also to forfeiture of all movable properties found in or on such hotel, tavern, house, shop or place :]

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

19. No license shall be granted under the provisions of ³[the Bengal Excise Act, 1909], unless the person applying for such license shall produce a certificate from the Commissioner of Police, stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be,

Excise
license not
to be
granted
without
certificate
of Com-
missioner
of Police.

Ben. Act
V of 1909.

¹These two paragraphs within square brackets were substituted for the original paragraph 2 by section 3 of the Calcutta and Suburban Police (Amendment) Act, 1943 (Ben. Act I of 1943).

²Substituted for the words "shall be liable to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license :—" by sec. 3(c) of the Calcutta Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962).

³These words and figures within square brackets were substituted for the words, figures and brackets "Act XXI of 1856 (to consolidate and amend the law relating to the *Abkari*-revenue in the Presidency of Fort William in Bengal)" by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

[Ben. Act II**(Sections 20—22.)**

without risk or detriment to the preservation of peace and good order and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police.

¹[The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the ²State Government]

Duration
and
condition
of license.

20. It shall be competent to the Commissioner of Police, subject to the direction and control of the said ³[State Government], to limit in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under ⁴[the Bengal Excise Act, 1909.] shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Ben. Act
V of 1909.

Penalty
for keeping
up sign-
board or
notice after
expiry of
license.

21. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commis-
sioner may
grant
license for
places for
which no
licenses are
required
under the
Bengal
Excise
Act, 1909.

22. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for

¹These words within square brackets, in sec. 19 were substituted for the words "subject to the order and control of the said Lieutenant-Governor" by sec. 11 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

³The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴These words and figures within square brackets were substituted for the words and figures "the said Act XXI of 1856" by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Renumber section 22 as sub-section (I) thereof,—

(a) to sub-section (I) as so renumbered, add the following proviso, namely:—

“Provided that the said Commissioner may, by order, refuse to grant any licence under this sub-section, if, for reasons to be recorded in writing, he is of the opinion that—

(i) the character or antecedents of the applicant for such licence or the nature of the trade or calling pursued by him, make him unsuitable for the grant of such licence; or

(ii) the location of the house or place of public resort and entertainment in respect of which such licence is required is unsuitable for the grant of such licence on the ground of congestion of traffic, want of adequate space for parking vehicles or difficulty in maintaining public peace, order or safety or on any other similar grounds.”;

(b) after sub-section (I) as so renumbered, insert the following sub-section, namely:—

“(2) Any person aggrieved by an order refusing to grant a licence under the proviso to sub-section (I) may, within thirty days from the date of such order, prefer an appeal against such order to the State Government and the State Government may, after giving the appellant an opportunity of being heard, confirm, modify or set aside such order.”.

(Renumbered, added and inserted by West Ben. Act XXVII of 1969, section 10.)

[No. 8, dated the 1st October, 1973.]

(penalty for owning or keeping, ... large of common gaming-house, etc.; penalty for being found playing in common gaming-house; power to authorise entry of common gaming-house for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified.)—Rep. by sec. 17 of the Bengal Public Gambling Act, 1867 (Ben. Act II of 1867.)

31. (Portion of fine may be paid to informer.)—Rep. by sec. 3 and the Third Schedule of the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act X of 1914, Sch. II.

32. (Gambling in the streets.)—Rep. by sec. 17 of the Bengal Public Gambling Act, 1867 (Ben. Act II of 1867).

33. If any property answering the description set forth in any information which shall be given by any Police-officer to

¹These words and figures within square brackets were substituted for the words and figures “the said Act XXI of 1856” by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1988 (Ben. Act I of 1988).

²See foot-note 3 on page 46, ante.

³Substituted for the original section by sec. 8 (a) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

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seizure
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Penalty for
breach of
condition
of license.

Fees for
certificates,
licenses
and passes.

Pawn-
brokers and
money-
changers
to report
stolen
property
under
penalty
for neglect.

[Ben. Act II

(Sections 33A—35.)

any pawn-broker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be, or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest ¹[police-station], and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received :

Provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

Possession
of or deal-
ing with
thing
stolen
or fraudu-
lently
obtained.

²33A. (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment or possession ;

and, if it appears to the Magistrate, that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees or with imprisonment, with or without hard labour, for a term which may extend to three months.

Manufac-
ture or
possession
of gun-
powder.

34. Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

35. (*Licenses by Commissioner for sale and deposit of gunpowder, etc.*)—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).*

¹The word "police-station," was substituted for the word "police-office" by sec. 12 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Section 33A was inserted by sec. 13, *ibid.*

of 1866.]

(Sections 36—38.)

36. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

Licenses for conveying and removing gunpowder.

37. The Commissioner of Police, on credible information laid before him on oath, ¹[and reduced to writing,] may issue his warrant authorising a Police-officer ²[not below the rank of Sub-Inspector] to search³ * any house, shop, magazine or other building or place in which he shall have reasonable ground to suspect that any ⁴[explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any ⁴[explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act ⁵[or any other law or any rule made thereunder]; and all ⁴[explosive substance] found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Commissioner may issue warrant to search for explosive substance.

38. None of the ⁶[three] last preceding sections shall extend to any ⁷[magazine or store belonging to the Government], or building for the making or deposit of ⁸[explosive substances] under the authority or for ⁹[the use of any Government,] or to any ⁸[explosive substance] ¹⁰[belonging to the Government].

Act not to apply to explosive substances belonging to the Government.

¹Inserted by sec. 14(1) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Inserted by sec. 14 (2), *ibid.*

³The words "in the day-time," were repealed by sec. 14(3), *ibid.*

⁴Substituted for the word "gunpowder," by sec. 14(4) *ibid.*

⁵Inserted by sec. 14(5), *ibid.*

⁶Substituted for the word "four" by sec. 15(2) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁷The words "magazine or store belonging to the Crown" were first substituted for the words "Government magazine, or store" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁸The words "explosive substances" were substituted for the word "gunpowder," by sec. 15(1) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁹Substituted for the words "the use of the Government" by para. 3 and schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

¹⁰The words "belonging to the Crown" were first substituted for the words "belonging to Government" by para. 3 and the First schedule of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Sections 38A, 39.)

Power of Commissioner to prohibit the use or the driving of certain types of vehicles in streets or public places.

¹38A. (1) With the previous sanction of the State^a Government, the Commissioner of Police may, from time to time, by notification in the *Official Gazette*, prescribe the types of vehicles which shall not be driven or used in streets or public places within such limits as may be specified in this behalf by the Commissioner of Police in the said notification.

(2) Whoever uses or drives in a street or public place within the limits specified under sub-section (1), a vehicle of a type the use or driving of which has been prohibited under that sub-section, shall be liable to fine which may extend to five hundred rupees, and the vehicle in respect of which the offence has been committed shall be forfeited to the Government^a.

Power of Commissioner to make rules for regulation of traffic, etc.

⁴39. (1) With the previous sanction of the State^a Government, the Commissioner of Police may, after previous publication, from time to time, make rules—

- (a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed ;
- (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle, or walking, so as to prevent danger, obstruction or inconvenience to the public ;
- (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places, for vehicles or cattle ;
- (d) prescribing the number and position of lights to be used on vehicles in streets and public places ;
- (e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles, or coal or bricks, lime or other building materials through the streets, and the route and hours for such conveyance ;
- (f) for licensing, controlling, or in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than public buildings and the precincts thereof ;

¹Section 38A was inserted by sec. 3 of the Calcutta and Suburban Police (Amendment) Act, 1948 (West Ben. Act XXXV of 1948).

²See foot-note 2 on page 46 *ante*.

³See foot-note 10 on page 42, *ante*.

⁴Sections 39, 39A, 39B and 39C were substituted for the original sections 39 by sec. 16 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Section 39.)

- (g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places ;
- (h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination ;
- (i) for authorising and regulating the removal by the police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity ; or
- (j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein :

XI of 1878. Provided that nothing in this section shall affect the provisions
IV of 1884. of the Indian Arms Act, 1878, or the Indian Explosives Act, 1884.

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the ¹[*Official Gazette*] and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section shall be liable,—

- (i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (1)—to fine which may extend to fifty rupees, or
- (ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1)—to imprisonment with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or
- (iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (1)—to fine which may extend to one hundred rupees.

¹ See footnote 5 on page 84, *ante*.

(Section 39A.)

Power of
Commis-
sioner and
other
officers to
give direc-
tions to
the public.

39A. (1) The Commissioner of Police, and, subject to the orders of the Commissioner of Police every Police-officer of a rank not inferior to that of Sub-Inspector, may, with a view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section, or the provisions of any license granted under any such rule, give all such directions, either orally or in writing, as he may consider necessary to—

- (a) secure the orderly conduct of persons constituting processions and assemblies in streets ;
- (b) prescribe the routes by which, and the times at which, any such procession may, or may not, pass ;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;
- (d) keep order on and in all streets, quays, wharves and landing places, and all other public place or places of public resort ; or
- (e) regulate and control music, the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments in any street or any public place other than public buildings and the precincts thereof.

(2) The Commissioner of Police may also, subject to the control of the ^a[State] Government, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—

- (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place ;
- (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments of means of casting or impelling missiles ;
- (iii) the exhibition of persons, corpses, figures or effigies, in any public place ; and
- (iv) the public utterance of cries, singing of songs or playing of music.

^aSection 89A is new—see foot-note 4 on page 50, *ante*.

^bSee foot-note 2 on page 46, *ante*.

of 1866.]

(Section 39B.)

(3) The Commissioner of Police may also, subject to the control of the ¹[State] Government, whenever and for such time as he may consider necessary, by notification publicly promulgated or addressed to individuals, prohibit the delivery of public harangues the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing, which—

- (i) may be of a nature to outrage morality or decency, or
- (ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.

(4) The Commissioner of Police may also, by order in writing prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the ¹[State] Government.

(5) The Commissioner of Police may also, subject to the orders of the ¹[State] Government, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved, save under such conditions as may be prescribed by the Commissioner of Police.

(6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,—

- (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5) to fine which may extend to one hundred rupees, or
- (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4), to imprisonment, with or without hard labour, for a term which may extend to one month, or to a fine which may extend to one hundred rupees, or to both.

²39B. (1) Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) of the last foregoing section, then,—

- (a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5)—any Magistrate or any Police-officer, or

Enforcement of orders issued under the last foregoing section.

¹See foot-note 2 on page 46, *ante*.

²Section 39B is new—see foot-note 4 on page 50, *ante*.

(Sections 39C, 39CC.)

(b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or in the case of an order issued under the said sub-section (4)—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

Power to
give
directions
to prevent
disorder at
places of
public
amuse-
ments, etc.

¹39C. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement; or at any assembly or meeting to which the public are invited or which is open to the public,

the Police-officer of highest rank, superior to that of Head Constable, who is present, may, subject to such rules, directions and orders as may have been lawfully made,

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting ;

and all persons shall be bound to conform to such directions.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

Prohibition
of sale at a
higher price
of tickets
once issued
for ad-
mission to
an enter-
tainment.

²39CC. (1) For the purpose of preventing disorder or disturbance at or near any place where any entertainment is held, the Commissioner of Police may, with the previous sanction of the State Government, by order (of which public notice shall be given), prohibit within a radius of one furlong from the place of entertainment, the sale or the offer for sale of tickets once issued for admission as spectators to such entertainment at a price higher than the price at which such tickets were originally issued.

¹Section 39C is new—see foot-note 4 on page 50, *ante*.

²Inserted by sec. 3(b) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

of 1866.]

(Sections 39D, 40.)

- (2) Whoever contravenes any order referred to in sub-section (1) shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one hundred rupees or to both.
- (3) Any police officer below the rank of Sub-Inspector may arrest without warrant any person committing an offence punishable under this section.
- (4) In this section the expression 'entertainment' means any exhibition, performance, amusement, game or sport to which persons are admitted as spectators on production of tickets.

¹39D. The Commissioner of Police may, by order in writing, depute one or more Police-officers, not below the rank of Head Constable, or other persons, to attend any public meeting for the purpose of causing a report to be taken of the Proceedings of such meeting if in the opinion of the Commissioner of Police, to be recorded in writing, the meeting is likely to promote sedition or disaffection or to cause disturbance of the public peace and tranquility.

Power of Commissioner to cause reports to be taken of the Proceedings of public meeting.

40. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said ²[State] Government, in any * * * street, * * * thoroughfare or place of public resort, shall commit any of the following offences shall be liable to a fine not exceeding fifty rupees :—

Penalty for committing in public streets offences of—

- (1) whoever shall drive, ride or lead any elephant or camel without ³[a pass] from the Commissioner of Police ;
- (2) whoever shall drive any vehicle * * * ⁴, at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light * * *
- (3) whoever, without reasonable cause, shall drive a * * * vehicle otherwise than on the left or near side of the road ;

driving, etc., elephant or camel ;
driving vehicle without sufficient light ;
driving otherwise than on left side of road ;

¹Section 39D was inserted by section 3 of the Calcutta and Suburban Police (Amendment) Act, 1939 (West Ben. Act XIV of 1939).

²See foot-note 2 on page 46, *ante*.

³The word "public" was repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁴The word "road" was repealed by sec. 34, *ibid*.

⁵Substituted for the word "permission" by sec. 3(c) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

⁶The words "of any description," were repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁷The words "except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary," were repealed by sec 34, *ibid*.

⁸The words "carriage, cart or other," were repealed by sec. 34, *ibid*.

[Ben. Act II

(Section 40.)

exposing
for show
horses,
cleaning or
repairing
convey-
ances, or
training
horses, in
places not
allowed by
Commis-
sioner ;

- (4) whoever shall expose for show, hire or sale any horse or other animal, or any carriage, or shall clean or dress any horse or other animal, or shall clean any carriage or other conveyance, or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner ;

exposing
or keeping
articles so
as to cause
obstruc-
tion ;

- ¹(4a) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare ;

- (5) to (9) (*Negligence in driving cattle ; leaving cart, etc., without control ; obstructing road or thoroughfare by carriage, etc. ; obstructing footway ; beating drums, tom-toms, etc.*)—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910) ;*

lighting
fires and
discharging
guns, fire-
works, etc. ;

- (10) whoever shall set fire to or burn any straw or other matter, or light any bonfire, or wantonly discharge any firearm or air-gun, or, let off or throw any fire-work, or send up any fire balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police ;

driving
cart with
insuffi-
ciently
wheels ;

- (11) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven ;

- (12) (*Illuminations.*)—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910) ;*

affixing
bills or
otherwise
defacing
houses,
etc. ;

- (13) whoever, without the consent of the owner or occupier, shall affix any bill or notice, or any paper, against or upon any building, wall, ²[tree, fence, post, pole or other erection,] or shall write upon, deface or mark any such building, wall, ²[tree, fence, post, pole or other erection,] with chalk or paint, or in any way whatsoever ;

bathing,
etc., in
public
street or
aqueduct.

- (14) whoever shall bathe or wash himself in any * * street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose ;

¹Clause (4a) was inserted by sec. 17 of the Calcutta and Suburban Police (Amendment) Act, 1910' (Ben. Act III of 1910).

²These words were substituted for the words "or fence" by sec. 7 of the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act III of 1907).

³The word "public" was repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Sections 40A—42A.)

- (15) whoever shall obstruct or incommode a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing place, or by anchoring or otherwise fastening or keeping boats, or by washing *¹cattle or dogs, at or near such place, or in any other way ;

obstruct-
ing persons
at bathing
places ;

- (16) (*Cruelty to animals.*)—Rep. by sec. 8 of the Bengal Cruelty to Animals Act, 1869 (Ben. Act I of 1869) ;

- (17) whoever, in any public *²street, thoroughfare or place shall beg or apply for alms, or shall expose or exhibit any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or shall seek for or obtain alms, by means of any false statement or pretences ;

beggars ;

- (18) Whoever, wilfully and indecently exposes his person or commits a nuisance by easing himself.

exposing
person, etc.

40A. [*Refuges for reception of certain classes of convicted beggars.*—Repealed by sec. 27 of the Bengal Vagrancy Act, 1943 (Ben. Act VII of 1943).

*41. Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

Penalty for
drunken-
ness,
riotous or
indecent
behaviour
in public.

41A. [*Penalty for solicitation in a public place.*—Rep. by section 2 and the Schedule to the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act IV of 1933).

42. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the house of the owners of such dogs, may be destroyed.

Stray dogs.

*42A. (1) No person shall bring, keep or possess in the suburbs of the town of Calcutta any animal or class or classes of animals which the State Government may, for the purposes of this section by notification in the *Official Gazette*, specify as

Restrictions
as to
bringing,
keeping or
possessing
dangerous
animals.

¹The word "horses" was repealed by sec. 34 of the Calcutta Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The word "road" was repealed by sec. 34, *ibid.*

³This section was substituted for the original sec. 41 by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act II of 1886).

⁴Inserted by sec. 3(d) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962).

(Section 43.)

likely to cause danger to human life or property except under, and in accordance with the terms and conditions of a licence obtained from such authority, in such manner and on payment of such fee, not exceeding ten rupees, as the State Government may specify by rules made in this behalf.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Power to
arrest
without
warrant.

¹43 (1) Subject to the restrictions imposed by clause (b) of sub-section (1) of section 39B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under—

- (a) any section of this Act ²* *, or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force, if such person,—
 - (i) after being warned by a Police-officer, persists in committing such offence, or
 - (ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or
 - (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by ³[sub-section (3) of section 39CC or by] any other law.

⁴(2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate having jurisdiction.

¹This section 43(1) was substituted for the original sec. 43 by sec. 22 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The words, figures and letter "other than section 41A" were repealed by sec. 2 and the Schedule to the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act VI of 1933).

³Inserted by sec. 8 (d) of the Calcutta and Suburban Police (amendment) Act, 1952 (West Ben. act XIX of 1952).

⁴This sub-section (2) was inserted by sec. 28 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Sections 43A-47.)

43A. [Arrest without warrant for solicitation.]—Rep. by section 2 and the Schedule to the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act VI of 1933).

44. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorised by or acting in aid of him, and may be detained until he gives his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Arrest of person committing offence with respect to person or property of another.

45. Every person taken into custody without a warrant by a Police-officer under this Act shall be taken to the nearest ¹[police-station] in order that such person may be detained until he can be brought before the Magistrate or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate.

Persons taken into custody by Police-officer without warrant may be detained in police-station until brought before Magistrate or bailed.

Any person so detained and not entering into recognizances, with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

46. Whenever any person shall be brought to a ¹[police-station] charged with any offence against this Act, it shall be lawful for the officer in charge of such ²[police-station], or any superior officer of Police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Power to take recognizance at police-station.

47. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting ;

Condition of recognizance.

and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum—not exceeding one thousand rupees—thereby acknowledged ;

and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof ;

and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such

¹The word "police-station" was substituted for the words "police-station house" by sec. 24 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The word "police-station," was substituted for the word "station house" by sec. 24 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

(Section 47A.)

recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Power of Commissioner of Police to require attendance and obtain statements of witnesses.

¹47A. (1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving under him not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case ; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid may examine orally any person so attending, and may reduce into writing any statement made by him ; and such person shall be bound to answer all question relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired ; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the ²[State] Government.

* * * * *

the Commissioner of Police may, if he thinks fit, order payment, on the part ⁴[of the State Government], of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order

¹Section 47A was inserted by sec. 25 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²See foot-note 2 on page 46, *ante*.

³The words "subject to the control of the Governor-General in Council" were repealed by the First Sch., Part V, of the Devolution Act, 1920 (XXXVIII of 1920).

⁴The words "of the Provincial Government" were first substituted for the words "of the Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1866.]

(Sections 47B—48.)

payment, as aforesaid, of the reasonable expenses of any person not so residing who attends as aforesaid.

Act V of
1898.

¹47B. If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898, the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Power to
search for
persons
wrongfully
confined.

²47C. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

Procedure
in making
searches.

(2) The search shall be made in the presence of such persons and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under sub-section (2), signed by the said witnesses, shall be delivered to such occupant or person at his request.

Act XXV
of 1861.

48. All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by section 61 of the Code of Criminal Procedure,¹ and the amount so levied shall be appropriated to any fund applicable to Police purposes:

Recovery
and appro-
priation
of fines.

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realised by recourse to the provisions above mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of the Indian Penal Code.

Imprison-
ment in
lieu of
fine.

Act XLV
of 1860.

¹Section 47B was inserted by sec. 27 the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Section 47C was inserted by sec. 29, *ibid.*

³Act XXV of 1861 was repealed and re-enacted by Act X of 1872, sec. 2, and Sch. V, directed that this reference should be deemed to be made to sec. 307 of the Act of 1872. Act X of 1872 was repealed and re-enacted by Act X of 1882, and the latter by Act V of 1898 (the present Code of Criminal Procedure). In accordance with Act V of 1898, sec. 3, the reference in the text should now be taken to be made to secs. 386, 387, and 389 of that Act, *Of. also the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), sec. 26.*

[Ben. Act II**(Sections 48A, 48B.)**

Police to
take
charge of
unclaimed
movable
property.

¹48A. (1) The Police shall, for the purpose of safe custody, take temporary charge of—

- (a) all unclaimed movable property found by them, and
- (b) all movable property found lying in any public street, if the owner or the person in charge of such property on being directed to remove the same, refuses or omits to do so within a reasonable time ;

and may, for the said purpose, take temporary charge of any unclaimed movable property made over to them.

(2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.

Disposal of
such
property.

¹48B. (1) If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator-General, with a view to its being dealt with under the Administrator-General's Act, 1913, or any other law for the time being in force.

III of 1913.

(2) In every other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of proclamation.

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

(5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to be delivered ; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

¹Sections 48A and 48B were inserted by sec. 2 of the Calcutta Suburban Police (Amendment) Act, 1929 (Ben. Act I of 1929).

of 1866.]

(Sections 49—50.)

(6) If no person establishes his claim to such property within the period prescribed in sub-section (2), it shall be at the disposal ¹[of the State Government]; and the property or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police.

49. (*Powers of Joint and other Magistrates.*)—*Rep. by Ben. Act I of 1874.*

²49A. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum or by advertising the same in such local newspapers, English or *vernacular*, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

Public notice how to be given.

²49B. Whenever under this Act or any rule made hereunder the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commissioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

Consent etc., of Commissioner of Police or Police-officer how to be proved.

²49C. Every license, written permission, notice or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 39A or an order made under sub-section (4) of that section, or an order made under section 47A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police shall be deemed to be properly signed if it bears a facsimile of

Stamping of signature.

Page 68—

In section 50, for the words "A Deputy Commissioner of Police", substitute the words "The Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police".

(Substituted by West Ben. Act XXVII of 1969, section 11.)

[No. 8, dated the 1st October, 1973.]

Powers of Deputy Commissioner.

¹See foot-note 4 on page 60, *ante*.

²Sections 49A, 49B and 49C were inserted by sec. 31 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³Substituted for the words "The Deputy Commissioner of Police" by sec. 3 (e) (i) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962) and deemed always to have been substituted.

⁴Substituted for the words "exercise all or any of the powers" by sec. 3 (e) (ii), *ibid*, and deemed always to have been substituted.

(Section 51.)

Inter-
pretation.

51. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :—

the word "property" shall include any chattel, money or valuable security ;

the word "person" shall include a corporation ;

the word "month" shall mean calendar month ;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath ;

* * * * *

the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine ;

* * * * *

"explosive substance" shall be deemed to include any materials for making any explosive substance ; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance ; also any part of any such apparatus, machine or implement.

The Calcutta and Suburban Police (Second Amendment) Act, 1978.

(Section 2.)

2. In the Calcutta Police Act, 1866,—

(1) in section 3, for the expression "place of public entertainment", the following expression shall be substituted

"place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink, drug, betel or tobacco is supplied for consumption on or off the premises for the profit or gain of any person owning or having an interest in or managing such place; and shall include a lodging-house where any kind of food, drink, drug, betel or tobacco is supplied for consumption therein or not and a refreshment room, eating-house, coffee-house, tea shop, snack shop, snack bar, sweetmeat-shop, liquor-house, boarding-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, ganja-shop, *bhang*-shop, opium-shop, tobacco-shop, *bidi*-shop, cigarette-shop, zarda-shop, betel-shop and betel leaf massalla shop; ;

any place, whether gaming, dancing or carrying on which are admitted, the intention of the Act, 1978, shall, billiard-school, in any place, where any kind of food, drink, drug, betel or tobacco is supplied for consumption on or off the premises for the profit or gain of any person owning or having an interest in or managing such place; and shall include a lodging-house where any kind of food, drink, drug, betel or tobacco is supplied for consumption therein or not and a refreshment room, eating-house, coffee-house, tea shop, snack shop, snack bar, sweetmeat-shop, liquor-house, boarding-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, ganja-shop, *bhang*-shop, opium-shop, tobacco-shop, *bidi*-shop, cigarette-shop, zarda-shop, betel-shop and betel leaf massalla shop; ;

led by sec. 5 (1) of the Act IV of 1913), and the Third Amendment Act, 1978.

and Suburban

include a refreshment-room, eating-house, boarding-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, ganja-shop, *bhang*-shop, opium-shop, tobacco-shop, *bidi*-shop, cigarette-shop, zarda-shop, betel-shop and betel leaf massalla shop; ;

of 1866.]

(Section 52 and the Form of Certificate.)

In section 51, in the paragraph relating to the definition of "Police-officer", for the words "and shall include the Commissioner of Police and a Deputy Commissioner of Police", substitute the words "and shall include the Commissioner of Police, an Additional Commissioner of Police, a Joint Commissioner of Police, a Deputy Commissioner of Police, an Additional Deputy Commissioner of Police and an Assistant Commissioner of Police".

(Substituted by West Ben. Act XXVII of 1969, section 12.)

[No. 8, dated the 1st October, 1973.]

docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation ;

¹"street" shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access ;

²"subordinate ranks" shall mean the ranks below Assistant Commissioner ;

¹"vehicle" shall include any locomotive, automobile, tram-car, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description capable of being used on the streets.

52. *(Act XXI of 1857 repealed in suburbs.)—Rep. by sec. 3 and the Third Schedule of the Amending Act, 1903 (I of 1903).*

4FORM OF CERTIFICATE

(Referred to in section 8.)

A. B. has been appointed a member of the Calcutta police-force, and is vested with the powers, functions and privileges of a Police-officer.

Commissioner of Police.

CALCUTTA ;

The

,19

¹See foot-note 3 on page 64, *ante*.

²See foot note 2 on page 46, *ante*.

³This definition was inserted by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴This form of certificate was substituted for the original form. by sec. 28 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

(2) for the Schedule of Fees annexed thereto, the following Schedule of Fees shall be substituted :—

6.]

'SCHEDULE OF FEES.

(See section 41.)

A. Fees for licenses.

Description of items.

For every tea shop, aerated water shop, cold drink shop, soda fountain.	Rs. 100 per year and also an additional fee of Rs. 10 per month or fraction of a month if music is to be played in such place.
For every coffee-house, boarding-house, eating-house or sweetmeat-shop.	Rs. 250 per year and also an additional fee of Rs. 15 per month or fraction of a month if music is to be played in such place.
For every hotel run in western style	Rs. 1,000 per year for hotel Rs. 2,000 per year for hotel and restaurant.
For every betel shop or shop selling bidi or cigarette or tobaccos or zarda or masalla for betel leaf.	Rs. 60 per year.
For every restaurant, snack shop, snack bar.	Rs. 250 per year.
For every lodging house for pilgrims	Rs. 50 per year.
For every lodging house for seamen	Rs. 100 per year.
For every other case	Rs. 10 per year :

Provided that no fee shall be payable in respect of any establishment the keeper of which is required to take out a license under section 218 of the Calcutta Municipal Act, 1951, the fee for which is not more than Rs.15 per year.

(second Amendment)

Fees.

Rs. 350 per year.

Rs. 300 per year.

Rs. 200 per year.

Rs. 20 per year.

Rs. 50 per day.

Rs. 10 per year.

Fees.

Rs. 10.

whether any
in any of the
referred to the
Commissioner

West Ben.
Act
XX
of 1951

Rs. 2.

in every ...

C. Fees for passes.

For every animal ... Rs. 5.

Explanation.—If any question arises as to whether any place or establishment or thing comes within any of the items described above, the matter shall be referred to the Commissioner of Police and the decision of the Commissioner of Police shall be final.

¹Added by sec. 8 (e) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

Bengal Act IV of 1866

(THE CALCUTTA POLICE ACT, 1866.)

CONTENTS.

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10. Power of Commissioner to suspend or dismiss or inflict any other punishment on any member of the subordinate ranks of the Police-force.
- 10A. Duties of Police-officers.
11. Power to fine members of subordinate ranks of the Police-force.
12. (*Repealed.*)
13. Members of the Police-force to receive certificate vesting them with powers of Police-officer.
- 13A. Members of subordinate ranks of the Police-force prohibited from other employment.
- 13B. Offences by Police-officers.
- 13C. Vexatious entry, search, seizure, arrest, detention, etc., by Police-officers.
14. Members of subordinate ranks of the Police-force not to resign without leave or notice.
- 14A. False statement to obtain employment or release.
15. Penalty for dismissed members of the Police-force not delivering up clothing, accoutrements, etc.
- 16, 17. (*Repealed.*)
18. Power to appoint special constables.
19. Powers of special constables.
20. Penalty for special constable neglecting or refusing to serve, etc.
- 20A. Special Police-officers.
21. Appointment of additional constables on application of private individuals.
- 21A. Constitution of divisions and sections.
- 22 to 24. (*Repealed.*)
25. Execution of warrants.
- 26 to 28. (*Repealed.*)
29. Wrongfully entering or remaining in or on building, land, vehicle, etc.
- 30, 31. (*Repealed.*)
32. Apprehension and punishment of reputed thieves, etc.
33. Penalty for taking spirits into barracks or on board vessels of war.
34. Penalty for taking spirits, etc., into jail.
35. Penalty for keeping hotel, etc., without license.

SECTION.

- 36. Excise-license not to be granted without certificate of Commissioner.
- 37. Duration and conditions of license.
- 38. Penalty for keeping up signboard or notice after expiry of license.
- 39. Commissioner of Police may grant licenses for places for which no licenses are required under the Bengal Excise Act.
- 40. Penalty for breach of conditions of license.
- 41. Fees for certificates, licenses and passes.
- 42. Penalty for harbouring and concealing deserters from merchant vessels.
- 43 to 43B. (*Repealed.*)
- 43C. Power to order discontinuance of music in certain cases.
- 43D. Power to prohibit, restrict, regulate or impose conditions on the use of microphones, etc.
- 44—50, 50A and 51 (*Repealed.*)
- 52. (*Repealed.*)
- 53. Pawn-brokers and money-changers to report stolen property under penalty for neglect.
- 54. Taking pledge from child under age of fourteen.
- 54A. Possession or dealing with thing stolen or fraudulently obtained.
- 55. Standard weights and measures.
- 56. Powers of Inspector, etc., to enter shops to seize false weights and measures.
- 57. Manufacture or possession of gunpowder.
- 58. (*Repealed.*)
- 59. Licenses for conveying and removing gunpowder.
- 60. Commissioner may issue warrant to search for explosive substance.
- 61. Act not to apply to explosive substances belonging to the Government.
- 61A. Power of Commissioner to prohibit the use or the driving of certain types of vehicles in streets or public places.
- 62. Power of Commissioner to make rules for regulation of traffic, etc.
- 62A. Power of Commissioner and other officers to give directions to the public.
- 62B. Enforcement of orders issued under the last foregoing section.
- 62C. Power to give directions to prevent disorder at places of public amusement, etc.
- 62CC. Prohibition of sale at a higher price of tickets once issued for admission to an entertainment.
- 62D. Power of Commissioner to cause reports to be taken of proceedings of public meetings.
- 63 to 65. (*Repealed.*)
- 66. Penalty for committing in public streets the offence of—
 - (1) driving, etc., elephant or camel ;
 - (2) driving vehicle without sufficient light ;
 - (3) driving on other than left side of road ;
 - (4) exposing for show or training horses, or cleaning conveyances in places not allowed ;
 - (4a) exposing or keeping articles so as to cause obstruction ;
 - (5) to (9) (*Repealed.*)
 - (10) driving cart with insufficiently greased wheels ;
 - (11) lighting fires and discharging guns, fireworks, etc. ;
 - (12) (*Repealed.*)
 - (13) affixing bills, or otherwise defacing houses, etc. ;
 - (14) bathing, etc., in public streets or aqueduct ;
 - (15) obstructing person at bathing places.
- 67. (*Repealed.*) *
- 68. Penalty for drunkenness or riotous or indecent behaviour in public.
- 68A. Penalty for committing a nuisance in streets.

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SECTION.

- 68B. (*Repealed.*)
- 69. (*Repealed.*)
- 70. Beggars.
- 70A. (*Repealed.*)
- 71. Stray animals to be impounded and sold unless redeemed within ten days.
- 71A. Restrictions as to bringing, keeping or possessing dangerous animals.
- 72. Power to arrest without warrant.
- 72A. (*Repealed.*)
- 73. (*Repealed.*)
- 74. Apprehension of offenders by private individuals.
- 75. Penalty for assaulting or resisting person apprehending under section 74.
- 76. Detention of persons taken into custody by police without warrant.
- 77. Power to take recognizances at police-station.
- 78. Condition of recognizance.
- 78A. Power of Commissioner of Police to require attendance and obtain statements of witnesses.
- 79. On suspicion of goods being stolen or unlawfully obtained, Commissioner may grant search warrant.
- 80. Power to search houses for stolen property without warrant.
- 80A. Power to search for persons wrongfully confined.
- 80B. When officer in charge of police-station may require another to issue search warrant.
- 80C. Procedure in making searches.
- 81. Seizure of stolen property.
- 82 to 94. (*Repealed.*)
- 95. If Magistrate certifies non-appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine.
- 96 to 98. (*Repealed.*)
- 99. *Clause 1.*—Limitation of actions.
 Notice of actions.
 Clause 2.—Plea.
 Tender of amends.
 Costs.
- 100. Police to take charge of unclaimed movable property.
- 101. Disposal of such property.
- 102. Stray dogs to be killed at certain appointed periods.
- 102A. Public notices how to be given.
- 102B. Consent, etc., of Commissioner of Police or Police-officer how to be proved.
- 102C. Stamping of signature.
- 103. (*Repealed.*)

Schedule of Forms.

- Form A.
- Form B. (*Repealed.*)
- Schedule of fees.

Bengal Act IV of 1866

(THE CALCUTTA POLICE ACT, 1866.)¹

REPEALED IN PART	..	{	Ben. Act II of 1867.
			Ben. Act I of 1869.
			Ben. Act XII of 1873.
			Ben. Act XII of 1875.
			Ben. Act IV of 1877.
			Ben. Act IV of 1879.
			Ben. Act I of 1890.
			Ben. Act VI of 1905.
			Ben. Act XIII of 1923.
			Ben. Act VII of 1943.
AMENDED	..	{	Ben. Act II of 1876.
			Ben. Act II of 1886.
			Ben. Act II of 1895.
			Ben. Act III of 1897.
			Ben. Act IV of 1913.
			Ben. Act V of 1915.
			Ben. Act VII of 1919.
			Ben. Act V of 1922.
			Ben. Act I of 1939.
			Ben. Act VIII of 1939.
			Ben. Act XIV of 1939.
			Ben. Act I of 1943.
			West Ben. Act XXXV of 1948.
			West Ben. Act XIX of 1952.
			West Ben. Act XXIV of 1955.
			West Ben. Act XX of 1957.
			West Ben. Act XXXII of 1957.
			West Ben. Act XV of 1962.
REPEALED IN PART AND AMENDED.		{	Act I of 1903.
			Act XXXVIII of 1920.
			Ben. Act III of 1907.
			Ben. Act III of 1910.
			Ben. Act VI of 1933.
ADAPTED	..	{	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
			(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
			(c) The Adaptation of Laws Order, 1950.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons—see the *Calcutta Gazette*, 1865, page 2092.

LOCAL EXTENT.—This Act extends only to the town of Calcutta—see the preamble and secs. 1, 3 and 4.

OTHER ENACTMENTS.—For other enactments relating to the Calcutta Police,

(1) the Calcutta Port Act, 1890 (Ben. Act III of 1890), secs. 129 to 134 and 140 ;

(2) the West Bengal Fire Services Act, 1950 (West Ben. Act XVIII of 1950); sec. 85 ;

[Ben. Act IV]

(Sections 1—3.)

(28th March, 1866.)

An Act to amend and consolidate the provisions of Act XIII of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay) and of Act XLVIII of 1860 (to amend Act XIII of 1856).

Preamble. Whereas it is expedient to amend and consolidate the provisions of Act XIII of 1856 and of Act XLVIII of 1860, so far as the said Acts are applicable to the town of Calcutta ;

It is enacted as follows :—

Short title. 1. This Act may be cited as the Calcutta Police Act, 1866.

2. (*Repeal of Acts XIII of 1856 and XLVIII of 1860 in Calcutta.*)—*Rep. by the Repealing Act, 1873 (XII of 1873).*

Inter-pretation. 3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :—

the words “town of Calcutta” shall include all places within the local limits of the jurisdiction of ¹[the High Court at Calcutta] ;

the word “Magistrate” shall mean any Magistrate of Police^a acting for the said town ;

- (3) the Protection of Muhammadan Pilgrims Act, 1896 (Ben. Act I of 1896) ;
the Calcutta Police Act, 1898 (Ben. Act I of 1898) ;
the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), sec. 157 ;
- (6) the Calcutta Hackney-carriage Act, 1919 (Ben. Act I of 1919) ;
- (7) the Goondas Act, 1923 (Ben. Act I of 1923) ;
- (8) the Presidency Area (Emergency) Security Act, 1926 (Ben. Act III of 1926).
- (9) the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), secs. 596 and 597.
- (10) The West Bengal Gambling and Prize Competitions Act, 1957 (West Ben. Act XXXII of 1957), sec. 5.

¹Substituted for the words “Her Majesty’s High Court of Judicature at Fort William in Bengal” by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

^aNow “Presidency Magistrate”—see sec. 3 (2) of the Code of Criminal Procedure, 1898 (Act V of 1898).

of 1866.]

(Section 3.)

the word "property" shall include any chattel, money or valuable security ;

the word "month" shall mean calendar month ;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath ;

1* * *

the word "cattle" shall, besides horned cattle, include horses asses, mules, sheep, goats and swine ;

2* * *

the phrases "investigation," "offence," "cognizable offence" and "non-cognizable offence" shall respectively have the meanings assigned thereto by the Code of Criminal Procedure, 1898 ;

Act V of
1898.

"officer in charge of a police-station" shall include, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the Police-officer present at the station-house who is next in rank to such officer and is above the rank of constable ;

"explosive substance" shall be deemed to include any materials for making any explosive substance ; also any apparatus, machine, implement or material used or intended to be used, or adapted for causing or aiding in causing, any explosion in or with any explosive substance ; also any part of any such apparatus, machine or implement ;

"place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from

¹The definitions of "gaming", "instruments of gaming" and "common gaming-house" in sec. 3 were repealed by sec. 18(b) of the West Bengal Gambling and Prize Competitions Act, 1957 (West Ben. Act XXXII of 1957).

²Clauses as to number and gender were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903). See now sec. 14 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).

³These definitions in sec. 3 were added by section 3 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁴These definitions in sec. 3 were added by sec. 4, *ibid.*

(Section 3.)

those admitted, otherwise than for a *bona fide* charitable purpose ; and shall include a race-course, circus, theatre, music-hall, billiard-room, bagetelle-room, gymnasium and fencing-school ;

¹“place of public entertainment” shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing, such place ; ²[and shall include a lodging house whether any kind of food, drink or drug is supplied for consumption]

In section 3, in the paragraph relating to the definition of “Police-officer”, for the words “and shall include the Commissioner of Police and a Deputy Commissioner of Police”, substitute the words “and shall include the Commissioner of Police, an Additional Commissioner of Police, a Joint Commissioner of Police, a Deputy Commissioner of Police, an Additional Deputy Commissioner of Police and an Assistant Commissioner of Police”.

(Substituted by West Ben. Act XXVII of 1969, section 2.)

[No. 8, dated the 1st October, 1973.]

~~to state]~~ Government in this behalf ; ~~the local area~~

¹“public place” shall include the banks of the river, the docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof, and all places accessible to the public for drawing water, washing or bathing or for purposes of recreation ;

¹“street” shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access ;

¹“subordinate ranks” means the ranks below that of Assistant Commissioner ;

¹See foot-note 4 on page 73, *ante*.

²These words were substituted for the words “and shall include a refreshment-room, eating house, coffee-house, tea-shop, liquor-house, boarding-house, lodging-house,” by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1948 (Ben. Act I of 1948).

³Substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴This definition was inserted by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

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For section 5, substitute the following section, namely:—

“Appointment of Additional, Joint, Deputy, Additional Deputy and Assistant Commissioners of Police. 5. (1) The State Government may, from time to time, appoint one or more Additional, Joint, Deputy, Additional Deputy or Assistant Commissioners of Police, who shall be competent to perform, exercise and discharge such of the duties, powers and functions of the Commissioner of Police as are assigned under his orders to any such Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police.

Commissioner of Police.

Appointment of deputies to Commissioner.

(2) An Additional Commissioner of Police shall be subordinate to the Commissioner of Police, a Joint Commissioner of Police shall be subordinate to the Additional Commissioner of Police, a Deputy Commissioner of Police shall be subordinate to the Joint Commissioner of Police, an Additional Deputy Commissioner of Police shall be subordinate to the Deputy Commissioner of Police and an Assistant Commissioner of Police shall be subordinate to the Deputy Commissioner of Police and where there is an Additional Deputy Commissioner of Police, also to the Additional Deputy Commissioner of Police.”

Commissioner shall not ordinarily be a Magistrate.

Commissioner to be Justice of the Peace, but to act only in certain cases.

(Substituted by West Ben. Act XXVII of 1969, section 3.)

[No. 8, dated the 1st October, 1973.]

performance of the duties assigned to the Commissioner by

In section 7, in the second paragraph, for the words “The deputies to the Commissioner of Police may be appointed Justices of the Peace”, substitute the words “Any Additional, Joint, Deputy or Additional Deputy Commissioner of Police may be appointed as a Justice of the Peace”.

(Substituted by West Ben. Act XXVII of 1969, section 4.)

[No. 8, dated the 1st October, 1973.]

for the word “Provincial” by para. 2(1) of the Adaptation of Laws Order, 1950.

“Substituted for the words “to perform any of the duties assigned to that officer under his orders” by sec. 2(1) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962), and deemed to have always been substituted.

“The second paragraph of section 5 was omitted by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

“The words, “with the sanction of the Governor General of India in Council” were repealed by Part II of the Schedule of the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

“Justices of the Peace of the Presidency towns are now appointed under sec. 23 of the Code of Criminal Procedure, 1898 (Act V of 1898).

“Now “Presidency Magistrate”—see sec. 8(2) of the Code of Criminal Procedure, 1898 (Act V of 1898).

[Ben. Act IV

(Sections 8—9B.)

Constitution of Police-force.

8. For the said town of Calcutta there shall be a Police-force, which shall consist of such number of officers ^{1*} * * and shall be otherwise constituted in such manner as shall be from time to time ordered by the said ²[State] Government.

* *

Police to be under control of Commissioner. Rules for government of police to be made by Commissioner and approved by the State Government.

9. The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the ⁴[control] of the said ³[State] Government frame such orders and regulations as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, the description of arms, accoutrements and other necessities to be furnished to them, and all such other orders and regulations relative to the said Police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Power of State Government to frame rules.

⁵9A. (1) Subject to the provisions of this Act, the State Government may make rules relating to recruitment, conditions of service, disciplinary proceedings and punishments, in respect of members of the subordinate ranks of the Police-force.

(2) Any rules, orders or regulations made before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962 by any authority in respect of the aforesaid matters shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been validly made and shall continue in force until other provisions are made in this behalf.

West Ben. Act XV of 1962,

Appointment, dismissal and punishment of subordinate ranks of the Police-force.

⁵9B. (1) Subject to such rules as the State Government may make in this behalf, the Commissioner of Police shall have the power to appoint all members of the subordinate ranks of the Police-force :

¹The words "and men" were repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act III of 1910).

²See foot-note 8 on page 75, *ante*.

³The words "with the sanction of the Governor General of India in Council," were repealed by section 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁴This word was substituted for the word "approbation" by section 2 of the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act VII of 1919).

⁵Secs. 9A, 9B and 9C were inserted by sec. 2 (b) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962), and deemed to have always been inserted.

In section 9B, in the proviso to sub-section (1), for the words "to one of his deputies", substitute the words "to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police".

(Substituted by West Ben. Act XXVII of 1969, section 5.)

[No. 8, dated the 1st October, 1973.]

(2) Subject to the provisions of sections 10 and 11, the appointing authority or an officer not lower in rank than the appointing authority, shall be competent to inflict all punishments on the members of the subordinate ranks of the Police-force in disciplinary cases.

¹9C. Notwithstanding anything contained elsewhere in this Act or any decision of any court to the contrary, all appointments made by the Commissioner of Police or any other authority subordinate to him, all orders of dismissal or removal from office passed by any such appointing authority or other authority not subordinate to such appointing authority and all orders inflicting any other punishment passed by any authority, before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962, in respect of members of the subordinate ranks of the Police-force shall be deemed to be and to have always been validly passed as if the said Act were in force when such appointments were made or such orders were passed.

Validity of appointment, dismissal and punishment of subordinate ranks in certain cases.

West Ben. Act XV of 1962.

²10. ³(1) The Commissioner of Police may at any time suspend or dismiss ⁴[or inflict any other punishment on] any member of the subordinate ranks of the Police-force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

Power of Commissioner to suspend or dismiss or inflict any other punishment on any member of the subordinate ranks of the Police-force.

²(2) A Police-officer shall not by reason of being suspended from office cease to be a Police-officer. During the term of such suspension the powers, privileges and duties conferred or imposed upon him as a Police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

⁵10A. (1) It shall be the duty of every Police-officer—

(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him

Duties of Police-officers.

¹See foot-note 5 on page 76, ante.

²Section 10 was re-numbered as sub-section (1) of that section and sub-section (2) was added by sec. 8 of the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act VII of 1919).

³This sub-section (1) was substituted for the original sub-section by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1987.

⁴These words were inserted by sec. 2(c) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962), and deemed to have always been inserted.

⁵Section 10A was inserted by sec. 5 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act. III of 1910).

(Section 10A.)

by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors ;

- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view ;
- (c) to the best of his ability to prevent the commission of public nuisances ;
- (d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason ;
- (e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;
- (f) to discharge such duties as are imposed upon him by any law for the time being in force ;
- (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves ;
- (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his condition ;
- (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
- (j) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
- (l) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public ;
- ✓ (m) to regulate and control the traffic in the streets, to prevent obstruction therein and to the best of his ability to prevent the infraction of any rule or order made under this Act, or under any other law for the time being in force for observance by the public in or near the streets ;

of 1866.]

(Sections 11-13.)

- (n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship ;
- (o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat ; and
- (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.

(2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.

✓(3) A Police-officer may restrain or remove any person resisting or refusing or omitting to conform to, any such direction as aforesaid.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of ¹[subordinate ranks of the Police-force] may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

Power to fine members of subordinate ranks of the Police force.

12. (Additional penalties for neglect of duty, etc.) —Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

13. Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a ²[Police-officer.]

Members of the Police-force to receive certificates vesting them with powers of Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

¹These words were substituted for the words "the Police-force" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²The word "Police-officer" was substituted for the word "Constable" by sec. 6 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

(Sections 13A—13C.)

Members
of subordi-
nate ranks
of the
Police-
force
prohibited
from
other
employ-
ment.

¹13A. ²[A member of the subordinate ranks of the Police-force] shall not, without the permission of the Commissioner of Police,

either as principal or agent,—

- (a) engage in any trade, or
- (b) be in any way concerned in the purchase or sale of any immoveable property within the town or suburbs of Calcutta or of any interest therein, or
- (c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

Offences
by
Police-
officers.

²13B. Any Police-officer who—

- (a) contravenes any provision of the last foregoing section, or
- (b) is guilty of cowardice, or
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or
- (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

Vexatious
entry,
search,
seizure,
arrest,
detention,
etc., by
Police-
officers.

²13C. Any Police-officer who—

- (a) without lawful authority or reasonable cause, enters or searches or causes to be entered or searched, any building, vessel, tent or place, or
- (b) vexatiously and unnecessarily seizes the property of any person, or
- (c) vexatiously and unnecessarily detains, searches, or arrests any person, or
- (d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or

¹Sections 13A, 13B and 13C were inserted by section 7 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²These words were substituted for the words "The Commissioner or a Deputy Commissioner of Police shall not, without the permission of the Lieutenant Governor and a Police-officer of lower rank than that of Deputy Commissioner" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1866.]

(Sections 14—16.)

- (e) offers any unnecessary personal violence to any person in his custody, or
- (f) holds out to an accused person any threat or promise not warranted by law,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

14. No member ¹[of the subordinate ranks] of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention, if a member of the mounted branch of the said force, and two months' notice if a member of any other branch ;

Members of subordinate ranks of the Police-force not to resign without leave or notice.

and every member ¹[of the subordinate ranks] of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

²14A. Any person who knowingly makes a false statement or uses a false document, for the purpose of obtaining for himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, or to both.

False statement to obtain employment or release.

15. Every member of the Police-force who shall be dismissed from, or shall cease to hold and exercise, his office and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place, as shall be directed by the said Commissioner shall be liable on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

Penalty for dismissed members of the Police-force not delivering up clothing, accoutrements, etc.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be so delivered over, wherever the same may be found.

16. (*Police Superannuation Fund.*)—*Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. Act VI of 1905).*

¹These words were inserted by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Section 14A was inserted by sec. 8 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

[Ben. Act IV

(Sections 17—20A.)

17. (*Disposal of proceeds of certain fines, etc.*)—Rep. by sec. 3 of the Calcutta and Suburban Police (Superannuation Fund) Act, 1890 (Ben. Act I of 1890).

Power to
appoint
special
cons-
tables,

18. The Commissioner of Police may, of his own authority, appoint special constables to assist the Police-force on any temporary emergency.

Powers of
special
cons-
tables.

19. Every special constable so appointed shall have the same power, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

Penalty
for special
constable
neglecting
or refusing
to serve,
etc.

20. If any person, being appointed a special constable as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Special
Police
C

20A. (1) There shall be a force of special police officers for the town of Calcutta.

2. For ^{sub}—
In section 20A,—

(a) in the proviso to sub-section (2), for the words "to and Deputy Commissioner of Police", substitute the words "to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police";

(b) in sub-section (5), for the words "the Deputy Commissioner of Police", substitute the words "the Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police".

(Substituted by West Ben. Act XXVII of 1969, section 6.)

[No. 8, dated the 1st October, 1973.]

(b) classification and rank,

(c) uniform, equipment and badges,

(d) training, including attendance at drills and parades,

(e) allocation of duties and hours of duty,

(f) promotion, discipline and punishment, and

(g) leave and resignation

of special police officers appointed under this section and all other matters whatsoever relating to their organization and governance and to their conditions of service.

¹Inserted by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1955 (West Ben. Act XXIV of 1955).

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(Section 21.)

(4) A special police officer appointed under this section shall, except in so far as it is not inconsistent with the other sub-sections of this section and any regulations framed under sub-section (3), have the same powers, privileges and protection and the same duties and shall be liable to the same penalties as ordinary officers of police.

(5) A special police officer appointed under this section shall be a part-time officer and shall not be entitled to any remuneration for his services as such special police officer. His appointment may, without prejudice to the exercise of any powers of punishment conferred by any regulations under sub-section (3), be at any time cancelled by the Commissioner of Police or the Deputy Commissioner of Police, as the case may be, after giving him one month's notice in writing. He shall not be entitled to claim any compensation or damages for such cancellation of his appointment.

21. The ¹[State Government] may also, if ²[it] shall think fit, on the application of any person showing the necessity of it, appoint any additional number of constables to keep the peace at any place within ³[its] jurisdiction, at the charge of the person applying, but subject to the orders of the ⁴[Commissioner of Police], and for such time as ⁵[it] shall think fit ; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constables belonging to the Police-force :

Appoint-
ment of
additional
cons-
tables on
applica-
tion of
private
indivi-
duals.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the ⁵[State Government] shall discontinue such additional constables ; and all moneys received ⁶[by the State Govern-

¹The words "Provincial Government" were first substituted for the words "Commissioner of Police" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The word "it" was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The word "its" was substituted for the word "his" by paragraph 5(2), *ibid.*

⁴The words "Commissioner of Police" were substituted for the words "said Commissioner" by para. 8 and Schedule IV, *ibid.*

⁵The words "Provincial Government" were first substituted for the words "said Commissioner" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶The words "by the Provincial Government" were first substituted for the words "by the Commissioner" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act IV

(Sections 21A—29.)

ment] for the payment of any such additional constables shall be accounted for by ¹[it].

Constitu-
tion of
divisions
and
sections.

²21A. (1) Subject to the control of the ³[State] Government the Commissioner of Police shall, by order,—

- (a) constitute such and so many Police divisions as he thinks fit, and
- (b) sub-divide such divisions into such and so many sections as he thinks fit, and
- (c) define the limits and extent of such divisions and section.

(2) Every such order shall be published in the ⁴[Official Gazette] and in the manner prescribed by this Act for the publication of public notices.

22 to 24. (*Police districts ; appointment of Police Magistrates ; attendance of Police-officers at Police-Courts ; service of criminal process by Police-officers.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

Execution
of
warrants.

25. When any warrant shall be directed or delivered to any ⁵[officer of the Police-force], unless the authority issuing it shall order that it be executed without delay, such Police-officer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same; and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection, as if the same had been originally directed to him by name.

26 to 28. (*Offences summarily triable by Magistrates ; summary jurisdiction of two Magistrates ; restitution of stolen property.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

Wrongfully
entering or
remaining
in or on
building,
land,
vehicle,
etc.

29. Whoever without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises or any land or ground attached thereto, or any ground, building, monu-

¹The word "it" was substituted for the word "him" by paragraph 5 of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Section 21A was inserted by sec. 9 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³Substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the words "Calcutta Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵These words were substituted for the words "such officer" by sec. 8 and the Second Sch. of the Amending Act, 1908 (I of 1908).

⁶This section was substituted for the original sec. 29 by sec. 10 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

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(Sections 30—33)

ment or structure belonging to ¹[Government] or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

30, 31. (*Order of maintenance for wife or child ; restoration of woman or child detained for unlawful purpose.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

32. Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to commit any criminal act ;

Apprehension and punishment of reputed thieves, etc.

any reputed thief found between sunset and sunrise on board any vessel or boat, or lying or loitering in any *bazar*, street, * * yard, thoroughfare, or other place who shall not give a satisfactory account of himself ;

any person found between sunset and sunrise having his face covered or otherwise disguised, with intent to commit any offence ;

any person found between sunset and sunrise in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein ; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking ;

may be taken into custody by any Police-officer without a warrant, and shall be liable on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months.

29 & 30,
Vict. c. 109
XXXIV
of 1934.
44 & 45
Vict. c. 58.
VIII of
1911.

33. Whoever, not being amenable to ²[the Naval Discipline Act or the Indian Navy (Discipline) Act, 1934 or] the Army Act or ³[the Indian Army Act, 1911] takes, or attempts to take, into Fort William at Calcutta, or into any military barracks, guard-rooms or encampments within the town of Calcutta, or on board or alongside of any vessel of war belonging

Penalty for taking spirits into barracks or on board vessels of war.

¹The word "Crown" was first substituted for the word "Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The word "road" was repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³The words "the Naval Discipline Act, the Army Act or the Indian Articles of War" were first substituted for the words "the Articles of War for Her Majesty's Army or Her Majesty's Navy or for the native officers or soldiers in Her Majesty's Indian Army," by sec. 8 and the Second Schedule of the Amending Act, 1908 (I of 1908). Thereafter the words "or that Act as modified by the Indian Navy (Discipline) Act, 1944 or" were inserted after the words "the Naval Discipline Act" by sec. 2 of the Calcutta Police (Amendment) Act, 1939 (Ben. Act VIII of 1939), and finally the words "that Act as modified by" were omitted by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

⁴These words and figures were substituted for the words "the Indian Articles of War" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

(Sections 34, 35.)

to ¹[Government] in the port of the said town, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the licence in writing of the Commanding Officer (unless such articles are intended for some person above the rank of non-commissioned officer), shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Penalty
for taking
spirits,
etc.,
into jail.

34. Whoever takes, or attempts to take, without due permission, or throws or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

Penalty
for
keeping
hotel, etc.,
without
licence.

35. Whoever, in the town of Calcutta,
has or keeps any hotel, tavern, punch-house, ale-house, *arrack* or toddy-shop, or place for the sale or consumption of *ganja*, *chandu* or other preparations of opium, hemp or other intoxicating drug, plant or substance,

²[or has or keeps any lodging-house whether provisions, liquors or refreshments are sold or consumed therein, or not, or has or keeps any coffee-house, boarding-house, eating-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retained therein or procured elsewhere)],

without a licence, to be obtained in the manner hereinafter mentioned,

shall be liable, on summary conviction before a Magistrate, ³[to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both, and for a second or subsequent offence also to forfeiture of all movable properties found in or on such hotel, tavern, house, shop or place:]

Provided that nothing in this Act shall apply to the sale in reasonable quantities of any drug, plant or substance in any chemist's or druggist's shop for medical purposes only.

¹Substituted for the words "Her Majesty" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²These words and brackets were substituted for the words and brackets "or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed, (whether the same be kept or retained therein or procured elsewhere)" by sec. 8 of the Calcutta and Suburban Police (Amendment) Act, 1948 (Ben. Act I of 1948).

³Substituted for the words "to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary licence:" by sec. 2 (d) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962), and deemed to have always been substituted.

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(Sections 36—38.)

Ben. Act
V of
1909.

36. No license shall be granted under the provisions of ¹[the Bengal Excise Act, 1909], unless the person applying for such license shall produce a certificate from the Commissioner of Police stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

Excise-
license
not to be
granted
without
certificate
of Com-
missioner.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police.

²[The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the ³[State Government].

37. It shall be competent to the Commissioner of Police, subject to the direction and control of the said ³[State Government], to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions⁴ as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting or using the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid ; and no license granted under ⁵[the Bengal Excise Act, 1909], shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Duration
and
conditions
of license.

Ben. Act
V of
1909.

38. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any signboard or other notice which such person might have been theretofore bound, under the conditions of his said license, to affix on or near the house or place of public resort or entertainment for which such license had been

Penalty for
keeping
up sign-
board or
notice
after
expiry of
license.

¹These words and figures were substituted for the words, figures and brackets "Act XI of 1849 (for securing the Abkari revenue of Calcutta)" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words were substituted for the words "subject to the order and control of the Lieutenant Governor of Bengal" by sec. 11 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³See foot-note 2 on page 75, *ante*.

⁴For conditions prescribed under sections 37 and 39, see the Bengal Excise Manual, 1918, Vol. III, pp. 5 to 18.

⁵These words and figures were substituted for the words and figures "the said Act XI of 1849" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Renumber section 39 as sub-section (1) thereof, and—

(a) to sub-section (1) as so renumbered, add the following proviso, namely:—

“Provided that the said Commissioner may, by order, refuse to grant any licence under this sub-section, if, for reasons to be recorded in writing, he is of the opinion that—

(i) the character or antecedents of the applicant for such licence or the nature of the trade or calling pursued by him, make him unsuitable for the grant of such licence; or

(ii) the location of the house or place of public resort and entertainment in respect of which such licence is required is unsuitable for the grant of such licence on the ground of congestion of traffic, want of adequate space for parking vehicles or difficulty in maintaining public peace, order or safety or on any other similar grounds.”;

(b) after sub-section (1) as so renumbered, insert the following sub-section, namely:—

“(2) Any person aggrieved by an order refusing to grant a licence under the proviso to sub-section (1) may, within thirty days from the date of such

State Government and the State Government may, after giving the appellant an opportunity of being heard, confirm, modify or set aside such order.”.

(Renumbered, added and inserted by West Ben. Act XXVII of 1969, section 7.)

[No. 8, dated the 1st October, 1973.]

his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said ^a[State Government].

^a41. For every certificate, license or pass granted by the Commissioner of Police under this Act there shall be levied a fee at the rate specified in the Schedule of fees annexed to this Act.

42. Whoever, in any place within the said town, wilfully harbours or conceals any seaman or apprentice belonging to any vessel other than a vessel of ^a[the Indian Navy], knowing or having reason to believe, such seaman or apprentice to be a deserter, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees.

^aThese words and figures were substituted for the words and figures “the said Act XI of 1849” by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

^bSee foot-note 4 on p. 87, ante.

^cSee foot-note 2 on page 75, ante.

^dThis section was substituted for the original sec. 40 by sec. 12 of the Calcutta Police (Amendment) Act, 1876 (Ben. Act II of 1876).

^eSubstituted for the existing section by sec. 2(a) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

^fSubstituted for the words “the Navy of the Queen” by para. 8 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

Commissioner of Police may grant licenses for places for which no licences are required under the Bengal Excise Act.

Penalty for breach of conditions of license.

Fees for certificates, licenses and passes.

Penalty for harbouring and concealing deserters from merchant-vessels.

granted for that he

time of as such the shall be frequently

tion

of 1866.]

(Sections 43—43D.)

¹43, 43A and 43B. (*Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases ; penalty for breach of order, power of owner or lessor to determine lease or tenancy.*)—Rep. by the *Calcutta Suppression of Immoral Traffic Act, 1923* (Ben. Act XIII of 1923.)

¹43C. (1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct the discontinuance in any place of music or singing, the beating of drums or tom-toms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood :

Power to order discontinuance of music in certain cases.

Provided that in any case where the discontinuance of music or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal :

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

²43D. (1) (a) If, in the opinion of the Commissioner of Police, it is necessary so to do for the purpose of preventing annoyance to, or injury to the health of, the public or of any section thereof, or for the purpose of maintaining public peace and tranquillity, he may by order prohibit, restrict, regulate or impose conditions on,

Power to prohibit, restrict, regulate or impose conditions on the use of microphones, etc.

the use or operation in any area within the town of Calcutta or in any vehicle within such area, of microphones, loudspeakers, or other apparatus for amplifying music or other sounds.

(b) The State Government may, on its own motion or on the representation of any person or persons aggrieved, modify, alter or cancel any such order.

(2) A Police-officer, not below the rank of a Sub-Inspector or a Sergeant, may take such steps or use such force

¹Sections 43, 43A, 43B and 43C were substituted for the original sec. 43 by sec. 32 of the *Calcutta and Suburban Police (Amendment) Act, 1907* (Ben. Act III of 1907).

²Inserted by sec. 2 of the *Calcutta and Suburban Police (Amendment) Act, 1957* (West Ben. Act XX of 1957),

(Sections 44—52.)

as may be reasonably necessary for securing compliance with any order made under clause (a) of sub-section (1) or any such order as modified or altered by the State Government under clause (b) of that sub-section and may seize any microphone, loudspeaker or other apparatus used or operated in contravention of the order.

- (3) A Police-officer referred to above, who seizes any microphone, loudspeaker or other apparatus under sub-section (2), may also at the same time seize any vehicle in which such microphone, loudspeaker or other apparatus is being carried or conveyed or is being kept at that time :

Provided that any officer of the police-station within the limits of which the vehicle is seized not below the rank of a Sub-Inspector may release such vehicle on a bond for such sum, not exceeding five hundred rupees, as he deems reasonable, being executed by the owner of the vehicle in favour of the State Government to produce the vehicle at the time of the investigation or the trial, and to surrender the vehicle, if directed to be forfeited under sub-section (4).

- (4) Any person who contravenes any order of the Commissioner of Police made under clause (a) of sub-section (1) or who contravenes any such order as modified or altered by the State Government under clause (b) of that sub-section, shall be punished with a fine which may extend to one hundred rupees and the court trying an offence under this section may also direct the forfeiture of any microphone, loudspeaker or other apparatus seized under sub-section (2) or any vehicle seized under sub-section (3) or released under the proviso to that sub-section.

- (5) The provisions of this section shall be in addition to and not in derogation of the powers conferred by any other section of this Act.

44, 50, 50A and 51. (*Penalty for owning or keeping or being employed in a gaming-house, etc. ; penalty for being found playing in gaming-house ; Commissioner or Magistrate may grant warrants to Police officers to enter gaming-house for search and seizure ; Common gaming-house ; On conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc. ; Proof of playing for stakes unnecessary ; witnesses indemnified ; exemption of games of mere skill ; portion of fine may be paid to informer.*)—Rep. by sec. 18 (b) of the West Bengal Gambling and Prize Competitions Act, 1951 (West. Ben. Act XXXII of 1957).

52. (*Gambling in the streets.*)—Rep. by sec. 17 of the Bengal Public Gambling Act, 1867 (Ben. Act II of 1867).

of 1866.]

(Sections 53—54A.)

53. If any property answering the description set forth in any information which shall be given by any Police-officer to any pawnbroker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawnbroker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest police-station, and also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty, to be imposed by a Magistrate on summary conviction, not exceeding fifty rupees for each and every such neglect or offence ;

Pawnbro-
kers and
money-
changers
to report
stolen
property
under
penalty
for neglect.

Provided always that, in the case of wearing-apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

54. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from any child any article whatsoever, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Taking
pledge
from
child
under the
age of
fourteen.

¹54A. (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment with or without hard labour, for a term which may extend to three months.

Possession
or dealing
with thing
stolen or
fraudu-
lently
obtained.

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person.

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witness who are produced to testify to such receipt, employment or possession ; and if it appears to the Magistrate that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which extend to three months.

¹Section 54A was inserted by sec. 13 of the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act III of 1910).

(Sections 55—60)

Standard weights and measures.

55. The Commissioner of Police shall keep in his office standard weights and measures; and weights and measures shall be held to be false when they do not agree with such standards.

Powers of Inspector, etc., to enter shops to seize false weights and measures.

56. Any Inspector or superior officer of police may enter any shop or premises for the purpose of inspecting the weights and measures, and instruments for weighing, kept or used therein, and may seize any weight, measure or instrument for weighing which he may have reason to believe is false.

Manufacture or possession of gunpowder.

57. Whoever manufactures gunpowder, or, without a licence from the Commissioner of Police, has in his possession in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds shall be liable, on a summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

58. (*Licences by Commissioner for sale and deposit of gunpowder, etc.*)—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).*

Licences for conveying and removing gunpowder.

59. The Commissioner of Police may grant to any person a licence for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf who carries or conveys a greater quantity of gunpowder than one pound from one place to another, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Commissioner may issue warrant to search for explosive substance.

60. The Commissioner of Police, on credible information laid before him on oath¹, ²[and reduced to writing] may issue his warrant authorizing a Police-officer ³[not below the rank of Sub-Inspector] to search ⁴“ * any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any ⁵[explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any ⁶[explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act ⁶[or any other law or any rule made thereunder]; and all ⁶[explosive substance] found in such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

¹As to oaths—*sec the Indian Oaths Act, 1873 (X of 1873).*

²These words were inserted by sec. 14(1) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³These words were inserted by sec. 14(2), *ibid.*

⁴The words “in the day time” were repealed by sec. 14(3), *ibid.*

⁵substituted for the word “gunpowder” by sec. 14(4), *ibid.*

⁶The words “or any other law or any rule made thereunder” were inserted by sec. 14(5), *ibid.*

of 1866.]

(Sections 61, 61A and 62.)

61. None of the ¹[three] last preceding sections shall extend to any ²[magazine or store belonging to the Government], or building for the making or deposit of ³[explosive substances] under the authority or for ⁴[the use of any Government] or to any ⁵[explosive substances] belonging to ⁶[Government].

Act not to apply to explosive substances belonging to the Government.

⁶61A. (1) With the previous sanction of the ⁷[State] Government, the Commissioner of Police may, from time to time, by notification in the *Official Gazette*, prescribe the types of vehicles which shall not be driven or used in streets or public places.

Power of Commissioner to prohibit the use or the driving of certain types of vehicles in streets or public places.

(2) Whoever uses or drives in a street or public place a vehicle of a type the use or driving of which has been prohibited under sub-section (1) shall be liable to fine which may extend to five hundred rupees, and the vehicle in respect of which the offence has been committed shall be forfeited to the ⁸[Government].

⁹62. (1) With the previous sanction of the ⁷[State] Government, the Commissioner of Police may, after previous publication, from time to time make rules—

Power of Commissioner to make rules for regulation of traffic, etc.

(a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing-places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed.

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle, or walking so as to prevent danger, obstruction or inconvenience to the public ;

¹Substituted for the word "four" by sec. 15(4) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The words "magazine or store belonging to the Crown" were first substituted for the words "Government magazine or store" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

³Substituted for the word "gunpowder" by sec. 15(1) of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁴Substituted for the words "the use of the Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵Substituted for the words "Her Majesty" by para 4 (2) of the Adaptation of Laws Order, 1950.

⁶Section 61A was inserted by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1948 (West Ben. Act XXXV of 1948).

⁷See foot-note 3 on page 84, *ante*.

⁸See foot-note 1 on page 85, *ante*.

⁹These sections 62, 62A, 62B and 62C were substituted for the original sec. 62 by sec. 16 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

(Section 62.)

- (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle ;
- (d) prescribing the number and position of lights to be used on vehicles in streets and public places ;
- (e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron girders, beams or bars, boilers, or other unwieldy articles, or coal, or bricks, lime, or other building materials, through the streets, and the route and hours for such conveyance ;
- (f) for licensing, controlling, or, in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than public buildings and the precincts thereof ;
- (g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places ;
- (h) for controlling, in the interest of the public convenience and safety, the illumination of streets and public places and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination ;
- (i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity ; or
- (j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein :

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 1878, or the Indian Explosives Act, 1884.

XI of 1878,
IV of 1884.

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section and every rescission of any such rule shall be published in the ¹[*Official Gazette*] and in the manner prescribed by this Act for the publication of public notices.

¹See foot-note 4 on page 84, *ante*.

of 1866.]

(Section 62A.)

(4) Whoever contravenes any rule made under this section shall be liable,—

- (i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (1)—to fine which may extend to fifty rupees, or
- (ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1)—to imprisonment, with or without hard labour, for a term which may extend to eight days or to fine, which may extend to fifty rupees, or to both, or
- (iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (1)—to fine which may extend to one hundred rupees.

¹62A. (1) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police-officer of a rank not inferior to that of Sub-Inspector, may with a view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section or the provisions of any license granted under any such rule give all such directions, either orally or in writing, as he may consider necessary to—

Power of Commissioner and other officers to give directions to the public.

- (a) secure the orderly conduct of persons constituting processions and assemblies in streets ;
- (b) prescribe the routes by which and the times at which any such procession may, or may not, pass ;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;
- (d) keep order on and in all streets, quays, wharves and landing-places, and all other public places or places of public resort ; or
- (e) regulate and control music, the beating of drums, tom-toms and other instruments, and the blowing or sounding of horns or other noisy instruments, in any street or any public place other than public buildings and the precincts thereof.

(2) The Commissioner of Police may also, subject to the control of the ²[State] Government, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—

- (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place ;

¹ See foot-note 9 on page 98, *ante*

² See foot-note 8 on page 84, *ante*.

[Ben. Act IV**(Section 62A.)**

- (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments or means of casting or impelling missiles ;
- (iii) the exhibition of persons, corpses, figures or effigies in any public place ; and
- (iv) the public utterance of cries, singing of songs or playing of music.

(3) The Commissioner of Police may also, subject to the control of the ¹[State] Government, whenever and for such time as he may consider necessary, by notification publicly promulgated or adressed to individuals, prohibit the delivery of public harangues, the use of gestures, or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing which—

- (i) may be of a nature to outrage morality or decency, or
- (ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace or to resistance to, or contempt of, the law or lawful authority.

(4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the ¹[State] Government.

(5) The Commissioner of Police may also, subject to the orders of the ¹[State] Government, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the Commissioner of Police.

(6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,—

- (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees ; or
- (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.

¹See foot-note 3 on page 84, *ante*.

of 1866.]

(Sections 62B, 62C and 62CC.)

¹62B. (1) Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) of the last foregoing section, then—

Enforcement of orders issued under the last foregoing section.

(a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5),—any Magistrate or any Police-officer, or

(b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or, in the case of an order issued under the said sub-section (4),—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

¹62C. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, the Police-officer of highest rank superior to that of Head Constable, who is present may, subject to such rules, directions and orders as may have been lawfully made,

Power to give directions to prevent disorder at places of public amusement, etc.

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting ;

and all persons shall be bound to conform to such directions.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

²62CC. (1) For the purpose of preventing disorder or disturbance at or near any place where any entertainment is held, the Commissioner of Police may, with the previous sanction of the State Government, by order (of which public notice shall be given), prohibit within a radius of one furlong from the place of entertainment, the sale or the offer for sale of tickets once

Prohibition of sale at a higher price of tickets once issued for admission to an entertainment.

¹ See foot-note 9 on page 93, *ante*.

² Inserted by sec. 2(i) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

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(Sections 62D—66.)

issued for admission as spectators to such entertainment at a price higher than the price at which such tickets were originally issued.

- (2) Whoever contravenes any order referred to in sub-section (1) shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one hundred rupees or to both.
- (3) Any police officer not below the rank of Sub-Inspector may arrest without warrant any person committing an offence punishable under this section.
- (4) In this section the expression 'entertainment' means any exhibition, performance, amusement, game or sport to which persons are admitted as spectators on production of tickets.

Power of Commissioner to cause reports to be taken of proceedings of public meetings.

¹62D. The Commissioner of Police may, by order in writing, depute one or more Police-officers, not being below the rank of Head Constable, or other persons to attend any public meeting for the purpose of causing a report to be taken of the proceedings of such meeting if in the opinion of the Commissioner of Police to be recorded in writing, the meeting is likely to promote sedition or disaffection or to cause a disturbance of the public peace and tranquillity.

63 to 65. (*Passenger-boats to be registered ; power to refuse or cancel registration ; penalty for neglecting ; or delaying to report accident attended with loss of life.*)—Rep. by Ben. Act IV of 1879.

Penalty for committing in public streets the offence of—

66. Whoever, within such limits^a as shall be from time to time defined by the Commissioner of Police, with the sanction of the said ^a[State] Government in any ^{**} * street, ^{**} * thoroughfare or place of public resort, commits any of the following offences, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees :—

driving, etc., elephant or camel ;

- (1) whoever drives, rides or leads any elephant or camel without ^e[a pass] from the Commissioner of Police ;

¹This section was inserted by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1939 (Ben. Act XIV of 1939).

^aThese have been defined to be "the limits of the town of Calcutta as declared by the Proclamation of the Governor-General in Council on the 10th September, 1794, by virtue of the Statute 38 George 3, Chap. 52, section 159"—see the *Calcutta Gazette*, of the 18th April 1866, Page 832.

^eSee foot-note 2 on page 75, *ante*.

^{*}The word "public" was repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

^{**}The word "road" was repealed by sec. 34, *ibid*.

^{*}Substituted for the word "permission" by sec. 2 (c) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

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(Section 66.)

- (2) whoever drives any vehicle ¹* * at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light ** * * * * driving vehicle without sufficient light ;
- (3) whoever, without reasonable cause, shall drive a ** * * vehicle otherwise than on the left or near side of the road ; driving other than left side of road ;
- (4) whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse, or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or trains or breaks any horse except in such place and at such times as may be allowed by the Commissioner ; exposing for show or training horses, or cleaning conveyances in places not allowed ;
- ✓*(4a) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare ; exposing or keeping articles so as to cause obstruction ;
- (5) to (9) (*negligence in driving cattle ; leaving cart, etc., without control ; obstructing road or thoroughfare by carriage, etc., obstructing foot-way ; beating drum, tom-tom, etc.*)—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).*
- (10) whoever, by driving hackery or cart with insufficiently-greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven ; driving cart with insufficiently-greased wheels ;
- (11) whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm, or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any ** * * street ** * or thoroughfare except at such times and places as shall from time to time be allowed by the Commissioner of Police ; lighting fires and discharging guns, fire-works, etc ;

¹The words "of any description" were repealed by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

*The words "except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary" were repealed by sec. 34, *ibid.*

*The words "carriage, cart or other" were repealed by sec. 34, *ibid.*

*Clause (4a) was inserted by 17 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

*The word "public" was repealed by sec. 34, *ibid.*

*The word "road" was repealed by sec. 34, *ibid.*

[Ben. Act IV]**(Sections 67—68A.)**

(12) (*illuminations*).—*Rep. by sec. 34 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).*

affixing
bills or
otherwise
defacing
houses,
etc. ;

(13) whoever without the consent of the owner or occupier affixes any bill or notice, or any paper against or upon any building, wall, ¹[tree, fence, post, pole or other erection], or writes upon, defaces or marks any such building, wall, ¹[tree, fence, post, pole or other erection] with chalk or paint, or in any way whatsoever ;

bathing,
etc., in
public
street or
aqueduct ;

(14) whoever bathes or washes himself in any * * * street or in, upon or by the side of any public tank, reservoir or aqueduct, not being a place set apart for such purpose ;

Obstruct-
ing persons
at bathing-
places.

(15) whoever obstructs or incommodes a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place or by anchoring or otherwise fastening or keeping boats, or by washing * * * cattle or dogs, at or near such place, or in any other way.

67. (*Cruelty to animals*).—*Rep. by sec. 8 of the Bengal Cruelty to Animals Act, 1869 (Ben. Act I of 1869).*

Penalty
for
drunken-
ness or
riotous or
indecent
behaviour,
in publi.

***68** Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

Penalty for
committing
a nuisance
in streets.

***68A.** Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself, in, or by the side of, or near to, any public street or thoroughfare or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding ten rupees, or, in default thereof, to imprisonment, with or without hard labour, for a term not exceeding three days.

¹These words were substituted for the words "or fence" by sec. 7 of the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act III of 1907).

²The word "public" was repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

³The word "horses" was repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

⁴This section was substituted for the original section 68 by sec. 2 of the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act II of 1886).

⁵Section 68A was added by sec. 3, *ibid.*

of 1866.]

(Sections 68B—71A.)

68B. (*Penalty for solicitation in a public place.*)—Rep. by section 2 and the Schedule of the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act V I of 1933).

69. (*Penalty for committing a nuisance in streets.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

70. Whoever in any public^{1*} *street, thoroughfare, or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms ;

Beggars.

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

70A. (*Refuges for reception of certain classes of convicted beggars.*)—Rep. by sec. 27 of the Bengal Vagrancy Act, 1943 (Ben. Act VII of 1943).

71. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police-officers, to seize all cattle or other animals found straying upon the** *streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the *[Government,] and to confine such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police ;

Stray animals to be impounded and sold unless redeemed within ten days.

and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner,

such animals impounded shall be publicly sold, and the produce of such sale after paying the said fee and also the expenses of feeding, shall be paid to the owners of such animal, or in default of their claiming such produce for the space of fifteen days after such sale shall be retained by the said Commissioner and credited to any fund applicable to police purposes.

***71A.** (J) No person shall bring, keep or possess in the town of Calcutta any animal or class or classes of animals which

Restrictions as to bringing, keeping or possessing dangerous animals.

¹The word "road" was repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910.)

²The word "roads" was repealed by sec. 84 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

*See foot-note 1 on page 85, ante.

³Inserted by sec. 2 (e) of the Calcutta and Suburban Police (Amendment) Act, 1962 (West Ben. Act XV of 1962) and deemed to have always been inserted.

[Ben. Act IV

(Section 72.)

the State Government may, for the purposes of this section by notification in the *Official Gazette*, specify as likely to cause danger to human life or property except under, and in accordance with the terms and condition of, a licence obtained from such authority, in such manner and on payment of such fee, not exceeding ten rupees, as the State Government may specify by rules made in this behalf.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Power to
arrest
without
warrant.

¹72. (1) Subject to the restrictions imposed by clause (b) of sub-section (1) of section 62B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under—

- (a) any section of this Act, ² * * * or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force, if such person,—

(i) after being warned by a Police-officer, persists in committing such offence, or

(ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false or cannot then and there ascertain to be true, or

(iii) is unknown to such Police-officer and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer, to a police-station on being required so to do.

[*Exalanation*.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by ³[sub-section (3) of section 62CC or by] any other law.]

⁴[(2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or if so required, to furnish sureties,

¹This section 72(1) was substituted for the original sec. 72 by sec. 21 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The words, figure and letter "other than section 68B" were repealed by sec. 2 and the Schedule of the Bengal Suppression of Immoral Traffic Act, 1938 (Ben. Act VI of 1938).

³Inserted by sec. 2 (d) of the Calcutta and Suburban Police (Amendment) Act, 1952 (West Ben. Act XIX of 1952).

⁴This sub-section (2) was inserted by sec. 28 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Sections 72A—78.)

he shall forthwith be forwarded to a Magistrate, having jurisdiction].

72A. (*Arrest without warrant for solicitation.*)—Rep. by sec. 2 and the Schedule of the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act VI of 1933).

73. (*Power to take into custody without warrant.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

74. Whoever commits an offence on or with respect of the person or property of another, or, in committing any of the offences described or referred to in this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he gives his name and address and satisfies such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Apprehension of offenders by private individuals.

75. If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Penalty for assaulting or resisting person apprehended under section 74.

76. Every person taken into custody without a warrant by a Police-officer shall be taken to the ¹[police-station] in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Detention of persons taken into custody by police without warrant.

77. Whenever any person is brought to a ¹[police-station] charged with any offence against this Act, ²* * * or whenever a person is in the custody of any Police-officer without a warrant, it shall be lawful for the officer in charge of such ¹[police-station], or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Power to take recognizances at police station.

78. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before the Magistrate at his next sitting ;

Condition of recognizance.

¹The word "police-station" in sections 76 and 77 were substituted for the word "station-house" by sec. 24 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²The words and figures "or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1908 (I of 1908).

[Ben. Act IV

(Section 78A.)

and all persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum (not exceeding one thousand rupees) thereby acknowledged ;

and the time and place of appearance shall be specified in the said recognizance or in the condition thereof ;

and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Power of
Commissioner of
Police to require
attendance and
obtain
statements of
witnesses.

178A. (1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing require the attendance, before himself or before any officer serving under him, not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case ; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid, may examine orally any person so attending, and may reduce into writing any statement made by him ; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner, or such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired ; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if any investigation were being made into such offence in such district, and shall forward the statement, reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the ¹[State] Government
* * * the Commissioner of Police may, if he thinks

¹Section 78A was inserted by sec. 25 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²See foot-note 8 on page 84, *ante*.

³The words "subject to the control of the Governor-General in Council" were repealed by Pt. V of the First Schedule of the Devolution Act, 1920 (XXXVIII of 1920).

of 1866.]

(Sections 79, 80.)

fit, order payment on the part ¹[of the State Government], of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment as aforesaid of the reasonable expenses of any person not so residing who attends as aforesaid.

79. If information shall be given on oath to the Commissioner of Police** *that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel,

the Commissioner** *by special warrant under his hand directed to any Police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant :

On suspicion of goods being stolen or unlawfully obtained Commissioner may grant search-warrant.

4[Provided that no such warrant shall authorize any Police-officer below the rank of Sub-Inspector to make any entry or search at night ;]

and the said Commissioner** ** if it shall appear to him necessary, may empower such Police-officer, with such assistants as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to go guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety ; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

80. If information shall be given to any officer of police not below the rank of ^a[Sub-Inspector], that there is reasonable cause

Power to search houses for stolen property without warrant.

¹The words "of the Provincial Government" were first substituted for the words "of the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words "or to a Magistrate", were repealed by the Presidency Magistrates (Court-fees) Act, 1877 (IV of 1877).

³The words "or the Magistrate" were repealed by the Presidency Magistrates (Court-fees) Act, 1877 (IV of 1877).

⁴These words were inserted by sec. 26 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

^aThe words "or Magistrate" were repealed by the Presidency Magistrates (Court-fees) Act, 1877 (IV of 1877).

^aThe word "Sub-Inspector" was substituted for the word "Inspector" by sec. 6 of the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act, III of 1907).

[Ben. Act IV

(Sections 80A, 80B and 80C.)

for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that by reason for the delay in obtaining a search-warrant the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified :

Provided always that a list of articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place ; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

Power to search for persons wrongfully confined.

¹80A. If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898, the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector ; and the officer to whom such warrant is directed may search for the person indicated in such warrant in accordance with such directions as may be given therein ; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Act V of 1898.

When officer in charge of police-station may require another to issue search-warrant.

²80B. (1) An officer in charge of a police-station in the town of Calcutta may require any officer in charge of a police-station in any part of ³[West Bengal], whether within or without the town of Calcutta, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed in accordance with the provisions of section 80 of this Act or section 165 of the Code of Criminal Procedure, 1898, whichever is applicable, and shall forward the thing found (if any) to the officer at whose request the search was made.

Procedure in making searches.

⁴80C. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

¹Section 80A was inserted by sec. 27 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Section 80B was inserted by sec. 28, *ibid.*

³The words "West Bengal" were substituted for the word "Bengal" by para. 8 (v) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴Section 80C was inserted by sec. 29 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Sections 81—99.)

(2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witness ; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search ; and a copy of the list prepared under sub-section (2) signed by the said witnesses, shall be delivered to such occupant or person at his request.

81. It shall be lawful for any Police-officer to seize any property or things which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence : and such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property as he shall think proper.

Seizure of stolen property.

82 to 94. (*Disposal of stolen property in custody of police ; Magistrate's power to summon persons charged ; summons how served ; power to issue warrant ; power to enforce attendance of witnesses ; fees ; power to order prisoners to be brought up ; giving false evidence ; power to adjourn hearing ; power to award costs and amends ; levy of fines ; distress not unlawful for want of form.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

95. If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by ¹[sections 64 and 67 to 70 of the Indian Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898], for levying fines.

If Magistrate certifies non-appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine.

96 to 98. (*Recognizances ; from of judgment ; grounds for quashing a conviction.*)—Rep. by the Presidency Magistrates Act, 1877 (IV of 1877).

99. *Clause 1.*—All actions and prosecutions against any person which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise ;

Limitation of action.

Act XLV of 1860.
Act V of 1898.

¹These words and figures were substituted for the words "this Act," by sec. 8 and the Second Sch. of the Amending Act, 1908 (I of 1908).

[Ben. Act IV]

(Sections 100, 101.)

Notice of
actions.

and notice in writing of such action, and of the causes thereof shall be given to the defendant one month at least before the commencement of the action ;

and in every such action it shall be expressly alleged in the plaint that the act complained of was done maliciously and without reasonable or probable cause ;

and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Plea.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon ;

Tender of
amends.

and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant ;

Costs.

and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases ;

and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge, before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Police to
take
charge of
unclaimed
movable
property.

¹100. (1) The Police shall, for the purpose of safe custody, take temporary charge of—

- (a) all unclaimed movable property found by them, and
- (b) all movable property found lying in any public street, if the owner or the person in charge of such property on being directed to remove the same, refuses or omits to do so within a reasonable time ;

and may, for the said purpose, take temporary charge of any unclaimed movable property made over to them.

(2) Property of which the Police have taken charge under subsection (1) shall be handed over to the Commissioner of Police.

Disposal
of such
property.

¹101. (1) If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall

¹These sections 100 and 101 were substituted for the original sections 100 and 101 by sec. 30 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

of 1866.]

(Sections 102—103.)

III of
1918.

communicate with the Administrator-General, with a view to its being dealt with under the Administrator-General's Act, 1913¹, or any other law for the time being in force.

²(2) In every other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police ; and the net-proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

(5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to be delivered ; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

(6) If no person establishes his claim to such property within the period prescribed in sub-section (2), it shall be at the disposal ³[of the State Government] ; and the property, or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police.

102. It shall be lawful for the Commissioner of Police, by order in writing, to be affixed at the principal police-stations and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owner of such dogs may be destroyed.

Stray dogs
to be killed
at certain
appointed
periods.

¹This figure was substituted for the figure "1874" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²As to the saving of these provisions from the operation of the General Succession Law—see sec. 55(1) of the Administrator-General's Act, 1913 (III of 1913).

³See foot-note 1 on page 105, *ante*.

[Ben. Act IV]

(Sections—102A—103 and Schedule of Forms.)

Public
notices
how to be
given.

¹102A. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

Consent,
etc., of
Commis-
sioner of
Police or
Police-
officer how
to be
proved.

¹102B. Whenever under this Act or any rule made hereunder the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commissioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction, shall, be sufficient evidence thereof.

Stamping
of signa-
ture.

¹102C. Every license, written permission, notice, or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 62A, or an order made under sub-section (4) of that section, or an order made under section 78A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

103. (*Foreign deserters.*)—*Rep. by the Indian Ports Act, 1875 (XII of 1875).*

SCHEDULE OF FORMS.

²FORM A—(*Referred to in section 13*).

A B has been appointed a member of the Calcutta Police force and is vested with the powers, functions and privileges of a Police-officer.

¹Sections 102A and 102B were inserted by sec. 81 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

²Section 102C was inserted by sec. 82(1), *ibid.*

³This Form A was substituted for the original Form A by sec. 83 of the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act III of 1910).

For every coffee house, boarding house, eating house or sweetmeat shop.	Rs. 250 per year and also an additional fee of Rs. 15 per month or fraction of a month if music is to be played in such place.
For every hotel run in western style	Rs. 1,000 per year for hotel. Rs. 2,000 per year for hotel and restaurant.
For every betel shop or shops selling <i>bidi</i> or cigarette or tobaccos or zarda or massalla for betel leaf.	Rs. 60 per year.
For every restaurant, snack shop, snack bar.	Rs. 250 per year.
For every lodging house for pilgrims	Rs. 50 per year.
For every lodging house for seamen	Rs. 100 per year.
For every other case	Rs. 10 per year.

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Provided that no fee shall be payable in respect of any establishment the keeper of which is required to take out a license under section 218 of the Calcutta Municipal Act, 1951, the fee for which is not more than Rs.15 per year, or is required to pay a tax under clause (f) of sub-section (1) of section 123 of the Bengal Municipal Act, 1932 which is not more than Rs.4 per year.

West Ben.
Act
XXXIII
of 1951.
Ben. Act
XV of
1932.

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B. Fees for certificate.

Description of items.	Fees.
For every restaurant with permanent bar with a foreign liquor shop or with India-made foreign liquor shop or hotel where spirituous liquor or foreign liquor or India-made foreign liquor are sold.	Rs. 350 per year.
For every foreign liquor shop or India-made foreign liquor shop.	Rs. 300 per year.
For every arrack or toddy shop	Rs. 200 per year.
For every <i>ganja</i> -shop, <i>bhang</i> -shop or opium-shop.	Rs. 20 per year.
For every temporary bar	Rs. 50 per day.
In every other case	Rs. 10 per year.

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[Ben. Act IV of 1866.]

(Schedule of fees.)

B. Fees for certificates.

Description of items.	Fees.
For every restaurant with a permanent bar or hotel where spirituous liquors are sold, or foreign liquor shop.	Rs. 25 per year.
For every <i>arrack</i> or toddy shop ...	Rs. 20 per year.
For every <i>gunja</i> -shop, <i>bhang</i> -shop or opium shop.	Rs. 2 per year.
For every temporary bar ...	Rs. 4 per day.
In every other case ...	Rs. 2.

C. Fees for passes.

Description of items.	Fees.
For every animal ...	Rs. 5.

Explanation.—If any question arises as to whether any place or establishment or thing comes within any of the items described above, the matter shall be referred to the Commissioner of Police and the decision of the Commissioner of Police shall be final.

Bengal Act III of 1867

(THE BENGAL PORTS ACT, 1867.)¹

SHORT TITLE GIVEN

Act I of 1908.

REPEALED IN PART

Act XII of 1878.

Act XII of 1875.

Act I of 1908.

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

ADAPTED

(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

(10th April, 1867.)

An Act to amend the law relating to ships lying in ports ^a[in the States or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal.³

Whereas it is expedient to amend the law relating to merchant-ships lying in ports ^a [in the States or parts of States corresponding to the Provinces which were on the tenth day of April, 1867] under the control of the Lieutenant-Governor of Bengal³ ;

Preamble.

It is enacted as follows :—

1. The following words and expressions for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say :—

Interpretation.

^a[the words “appropriate Government” mean, in relation to a port which is a major port within the meaning of the Indian Ports Act, 1908, the Central Government, and in relation to any other port, the State⁴ Government ;]

XV of
1908.

¹SHORT TITLE.—This short title was given by the Amending Act, 1908 (I of 1908).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see the *Calcutta Gazette*, 1866, page 2198.

LOCAL EXTENT.—This Act applies to all ports in the former Province of Bengal which are subject to the provisions of the Indian Ports Act, 1908 (XV of 1908)—see the title and preamble, and the definition of “port” in section 1.

²Substituted for the words “in the Provinces” by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

³This includes the present State of West Bengal and other territory.

⁴This definition was inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

^aThe word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act III]

(Section 2.)

"Master."	the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master ;
"Owner."	the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be ;
"Port."	the word "port" denotes any port within the ¹ [States] afore-said subject to the provisions of Act XXII of 1855 (<i>for the regulation of ports and port-dues</i>). ²
"Magistrate."	the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure, ³ and any Magistrate of Police for the town of Calcutta ;
"Municipal town."	the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bazar, village and tract of country to which the provisions of Act III of 1864 ⁴ (<i>the District Municipal Improvement Act</i>), passed by the ⁵ [Lieutenant-Governor of Bengal in council], have been or shall be extended ;

Act XXV
of 1861.

Penalty for
not having
sufficient
crew on
vessels
lying
in port.

2. If any vessel of more than ten tons burden shall, without such license as hereinafter is mentioned, be afloat in any port within the ⁷[territories to which this Act extends], without having on board thereof a crew of not less than the number set forth in the First Schedule hereto, the master of such vessel and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

¹Substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

²Act XXII of 1855 was repealed and re-enacted by the Indian Ports Act, 1875 (XII of 1875), and the latter Act was repealed and re-enacted by the Indian Ports Act, 1889 (X of 1889), which again has been repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908). The reference in the text to Act XXII of 1855 should now be construed as a reference to Act XV of 1908.

³Act XXA of 1861 was repealed and re-enacted by Act X of 1872, which again was repealed and re-enacted by Act X of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act V of 1898). This reference should now be taken to be made to the last mentioned Code—*see* sec. 3 thereof.

⁴Ben. Act III of 1864 was repealed and re-enacted by Ben. Act V of 1876, which was repealed and re-enacted by Ben. Act III of 1884, which again has been repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932). The reference in the text should now be taken to be made to Ben. Act XV of 1932.

⁵This expression stands unmodified—*vide* para. 9 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶The "number" Clause in respect of words denoting the plural or singular number, was repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

⁷Substituted for the words "Provinces under the control of the Provincial Government of Bengal" by para. 8 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

of 1867.]

(Sections 3—8.)

3. Whenever it shall appear to the Conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such Conservator, if he shall think fit, to grant under his hand a license in the Form A in the Second Schedule hereto, which license may be made determinable on the breach of any conditions therein contained ; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

Power to exempt from maintaining crew on particular ships.

4. It shall be lawful for such Conservator, by any writing under his hand in Form B in the Second Schedule hereto, to revoke such license ; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

Power to revoke exemption.

5. Whenever it shall appear to the Conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock without danger to any vessels in any part of such port, it shall be lawful for such Conservator to make an order in the Form C in the Second Schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order :

Power to make order with respect to portions of ports.

Provided always that every such order, amendment and revocation shall be published in the ¹[*Official Gazette*], and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

6. During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order.

Application of section 2 to certain ships.

7. [*Penalty on master omitting to take order to extinguish fire.*—*Rep. by the Indian Ports Act, 1875 (XII of 1875).*]

8. It shall be lawful for ²[the appropriate Government] to order (if and when ³[it] shall ⁴think fit) that the entire or any portion of the expense of maintaining the police-force in any port which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

Power to charge port-police upon port-fund.

¹These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were substituted for the words "the Lieutenant-Governor of Bengal" by para. 3 and Sch. IV, *ibid*.

³This word was substituted for the word "he" by paragraph 5(2), *ibid*.

⁴The words "in his discretion" were omitted by para. 3 and Sch. IV, *ibid*.

(Sections 9—16.)

Power to charge upon port-fund portion of expense of municipal police.

9. It shall be lawful for ¹[the appropriate Government] from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port fund of such port as to ²[it] shall seem just and reasonable for or towards re-imbursing to such municipal fund such portion of the expense of the police-force in such town as may, in the opinion of ¹[the appropriate Government], be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

Power to impose police-port-dues.

10. In case the port-fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout ; it shall be lawful for ¹[the appropriate Government] and ²[it] is hereby required to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police-port-dues, as shall thereunto be necessary :

Provided that the same shall not exceed the port-dues in that behalf mentioned in the Third Schedule to this Act.

11 to 13. [*Imposition and application of hospital port-dues : power to refuse port clearance till expenses under Merchant Shipping Act, 1854, s. 228, are paid*].—*Rep. by the Indian Ports Act, 1875 (XII of 1875).*

Power to compound port-dues.

14. It shall be lawful for the owner of any vessel to pay to the Conservator of any port three times the amount of the police-port-dues and hospital-port-dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

Power to vary port-dues.

15. It shall be lawful for ¹[the appropriate Government] from time to time, to vary the rate of police-port-dues *** ** payable in any port, as to ²[it] ** * shall seem fit, so as that the same shall not exceed the rates in the Third Schedule *** set forth.

Imposition or increase of port-dues to be published.

16. No order of ¹[the appropriate Government], imposing or increasing any port-dues under this Act, shall take effect until

¹These words were substituted for the words "the said Lieutenant-Governor of Bengal" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²This word was substituted for the word "him" by paragraph 5(2), *ibid*.

³See foot-note 3 on page 115, *ante*.

⁴The words "and hospital port dues" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

⁵See foot-note 4 on page 115, *ante*.

⁶The word "respectively" was repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

of 1867.]

(Sections 17—20 and the First Schedule.)

the expiration of six calendar months from the day upon which such order shall have been published in the ¹*[Official Gazette.]*

17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed * * * *. Recovery of penalties.

18. All penalties levied under this Act shall be applied as fines received under the said Act XXII of 1855^a are directed to be applied. Penalties how disposed of.

19. This Act shall be construed together with and as part of the said Act XXII of 1855^a. Construction.

20. *[Commencement of Act.]—Rep. by the Repealing Act, 1873 (XII of 1873).*

THE FIRST SCHEDULE.

(Referred to in section 2.)

	If Natives.	If Europeans.	Officers in charge.
Cargo boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings.	6	4	1
For every additional 100 tons ...	1½	1	0
Vessels not being cargo-boats of 600 tons and under, in stream.	11	7½	1
For every additional 100 tons ...	2	1	0

¹These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

^aThe remainder of sec. 17 (relating to the recovery of fines), commencing with the words "and the provisions", where they first occur, to the end, was repealed by sec. 4 and the Third Schedule of the Amending Act, 1908 (I of 1908).

^aSee foot-note 2 on page 114, *ante*.

[Ben. Act III of 1867.]

*(The Second and the Third Schedules.)***THE SECOND SCHEDULE.***(Referred to in sections 3, 4 and 5.)***FORM A.**

Port of ()
 I () Conservator of the Port of
 do hereby license the (*ship*)
 of which is master, to remain at his
 present moorings, in the said port, without having on board the
 crew required by Act III of 1867 of the ¹[Lieutenant-Governor
 of Bengal in Council :]

Provided always that, on breach of any of the conditions here-
 under written, this license shall forthwith absolutely cease and
 determine.

FORM B.

Port of ()
 I () the Conservator of the Port of
 do hereby revoke all license to the (*ship*) to remain
 in port without a crew therein.

FORM C.

Port ()
 I () the Conservator of the Port of
 do hereby order that vessels lying in the following portion of the
 said port (*here set out the exempted limits*) shall be exempt from
 the provisions of the second section of Act III of 1867 passed by
 the ¹[Lieutenant-Governor of Bengal in Council.]

THE THIRD SCHEDULE.*(Referred to in sections 10 ** * * and 15.)***PORT-DUES.***Police-port-dues.*

For every vessel entering any port, two annas per ton.

** * *

¹See foot-note 5 on page 114, *ante*.²The figure "11" was repealed by sec. 4 and Schedule III of the Amending Act, 1908 (I of 1908).³The provisions "Hospital Port-dues. For every vessel entering any port, one anna per ton" were repealed by sec. 4 and Third Schedule of the Amending Act, 1908 (I of 1908).

Bengal Act IV of 1867

[THE BENGAL RENT (APPEALS) ACT, 1867]¹

SHORT TITLE GIVEN ... Act I of 1903.

REPEALED IN PART AND AMENDED. ... Act I of 1903.

REPEALED (LOCALLY IN FORMER PROVINCE OF BENGAL). ... Act VIII of 1885.

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

ADAPTED

(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

(5th June, 1867.)

[*Title and preamble.*—*Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903.)*]

1. Words importing the singular number shall include the plural, and words importing the plural number shall include the singular. Inter-pretation.

2 to 4. [*Confirmation of prior orders by Deputy Collectors.*—*Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903.)*]

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1867, page 341.

LOCAL EXTENT.—The original local extent of this Act must (see section 5) be taken to have been the same as that of Act X of 1859 and Ben. Act VI of 1862, namely, the whole of the former Province of Bengal. The Act has however been repealed by sec. 2 (1) of the Bengal Tenancy Act, 1885 (VIII of 1885), everywhere except "the town of Calcutta, [the Division of Orissa] and the Scheduled Districts".

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts. Under the terms of the notifications, extending the Act of 1885 to the Jalpaiguri district the repeal has taken effect in the district.

The only portions of the present State of West Bengal in which Ben. Act IV of 1867 appears to be effectually in force at the present time is the Darjeeling District.

[Ben. Act IV of 1867.]

(Section 5.)

Appellate
jurisdiction
exercise-
able by
officers
specially
appointed
by State
Govern-
ment.

5. 1* * * * It shall be competent to the ¹[State Government]² * * * specially to appoint any fully qualified Revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under ³[the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862,] and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district within which such person shall be so appointed, might have and exercise.

X of 1859,
Ben. Act
VI of
1862.

¹The words "From and after the passing of this Act" were repealed by sec. 4 and the Third Schedule of the Amending Act, 1908 (I of 1908).

²The words "Provincial Government" were first substituted for the word "Lientenant Governor" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³The words "of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴These references were substituted for the words "the said recited Acts" by sec. 3 and the Second Schedule of the Amending Act, 1908 (I of 1908).

Bengal Act III of 1868

[THE BENGAL LAND-REVENUE SETTLEMENT ACT, 1868]¹

SHORT TITLE GIVEN

Act I of 1933.

REPEALED IN PART

Act XII of 1873.

(1st July, 1868.)

An Act to amend the law respecting appeals in cases under Regulation VII of 1822.²

Whereas it is expedient that the period for presenting appeals under section 29 of Regulation VII of 1822² should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities ;

Preamble.

It is enacted as follows :—

1. No petition of appeal presented under the provisions of section 29 of Regulation VII of 1822² shall be received after the expiration of thirty days from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented.

Limitation of appeals under section 29, Regulation VII of 1822.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

2. [*Commencement of Act.*].—*Rep. by the Repealing Act, 1873 (XII of 1873).*

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1868, page 956, and for Proceedings in Council, see *ibid*, Supplement, pages 281, 293, 363 and 371.

LOCAL EXTENT.—The local extent of this Act is the same as that of the Bengal Land-revenue Settlement Regulation, 1822 (Reg. VII of 1822).

²The Bengal Land-revenue Settlement Regulation, 1822.

Bengal Act IV of 1868

[THE BENGAL ALLUVION (AMENDMENT) ACT, 1868]¹.

SUPPLEMENTED	Ben. Act V of 1920.
SHORT TITLE GIVEN	Act I of 1903.
REPEALED IN PART	Act XII of 1873.
AMENDED	Ben. Act I of 1939.
	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
ADAPTED	... } (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
	(c) The Adaptation of Laws Order, 1950.

(8th July, 1868.)

IX of 1847. *An Act to amend the provisions of ^a[the Bengal Alluvion and Diluvion Act, 1847.]*

Whereas it is expedient to amend the provisions of Act IX of 1847; Preamble,

It is enacted and declared as follows :—

1. [*Repeal of sec. 7 of Act IX of 1847.*].—*Rep. by the Repealing Act, 1873 (XII of 1873).*

2. It is hereby declared that when any islands shall, under the provisions of clause 3, section 4, of Regulation XI of 1825^a of the ^a[West Bengal] Code, be at the disposal of ^b[the Government] all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of ^b[the Government].

Accessions to island considered increment thereto.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903),

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* the *Calcutta Gazette* of 1868, page 508, and for Proceedings in Council, *see ibid*, Supplement, 1861, pages 253, 337, 362, 372 and 388.

LOCAL EXTENT.—The local extent of this Act appears to be the same as that of the Act IX of 1847.

^aThese words and figure were substituted for the words, figures and brackets "Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the provinces of Bengal, Bihar and Orissa)" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

^bThe Bengal Alluvion and Diluvion Regulation, 1825.

^cSubstituted for the word "Bengal" by para. 3 (2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

^dThe words "the Crown" were first substituted for words "the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

(Sections 3—5.)

Newly
thrown
up islands
to be
assessed.

3. Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession by ¹[the Government] under clause 3, section 4, of Regulation XI of 1825² of the ³[West Bengal] Code, the local revenue-authorities shall take immediate possession of the same for ¹[the Government] and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final :

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

Subse-
quent
junction to
mainland
not to
affect
Govern-
ment right.

4. Any island of which possession may have been taken by the local revenue-authorities on behalf of ¹[the Government] under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Power to
apply for
ways
across
islands.

5. Whenever an island, of which possession shall have been taken ⁴[by the Government] under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession ⁵[of the Government¹] may apply to the Collector to take measures for the construction of ways, paths and roads on the island : the costs thereof to be equally divided between the applicant ⁶[and the State Government].

¹The words "the Crown" were first substituted for the words "the Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²The words "by the Crown" were first substituted for the words "by Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³The words "of the Crown" were first substituted for the words "of the Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴The words "and the Provincial Government" were first substituted for the words "and the Government" by para. 8 and schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

of 1868.]

(Sections 6—8.)

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Applicant
for ways to
deposit
money,
and ways
to be
made.

7. In every case the applicant shall be liable to pay and make good to the ¹[State Government] one-half of the costs of laying out and construction such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Costs of
ways
how
borne.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

Ways
to be
public.

¹The words "the Provincial Government" were first substituted for the word "Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

Bengal Act VII of 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868.)

Contents.

PREAMBLE.

SECTION.

1. Interpretation.
2. Appeals against sales.
3. Time for Revenue-sales extended.
4. Time for confirmation of sales extended.
5. Mode of serving notices.
6. Power to cause notices to be served for arrears or demands.
7. Notices to *raiyats* to be posted in subdivisional *cutcherry*.
8. Certificate to be conclusive evidence of regularity in service of notices.
9. (*Repealed*).
10. Collectorate to include all estates borne on its roll.
11. Power to sell tenures.
12. Effect of sale of tenure.
13. Power of enhancement.
14. Saving of right of *raiyat*.
- 15 to 29. (*Repealed*).
30. Construction of this Act and Act XI of 1859.

Schedules A to E (*Repealed*).

Bengal Act VII of 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868).¹

SUPPLEMENTED . . Ben. Act I of 1805.

SHORT TITLE GIVEN . . Act 1 of 1903.

REPEALED IN PART . . { Act XII of 1873.
Act I of 1903.
Ben. Act VII of 1880.

AMENDED . . { Ben. Act II of 1871.
Ben. Act I of 1939.
Ben. Act VII of 1942.

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

ADAPTED

(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

¹**SHORT TITLE.**—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette*, of 1868, page 471 ; and for Proceedings in Council, see *ibid*, Supplement, 1868, pages 247, 281, 390, 413, 509 and 523.

LOCAL EXTENT.—Since this Act is (see sec. 30, *post*, page 107) to be read with and taken as part of the Bengal Land-revenue Act, 1859 (XI of 1859), it has the same local extent as that Act.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 5, to the following Scheduled Districts, namely :—

the Western Duars, in the Jalpaiguri district ;

the Darjeeling district.

It will be noticed that this Act has not, like the Bengal Land revenue Sales Act, 1859 (XI of 1859), been expressly declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in West Jalpaiguri.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realised by sale under the present Act, and of money declared to be recoverable under the present Act, see the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), sec. 3(6) and Sch. I.

[Ben. Act. VII]

(Section 1.)

(26th August, 1868.)

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Preamble.

WHEREAS it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue ;

It is declared and enacted as follows :—

Interpre-
tation.

1. In this Act, and in ¹[the Bengal Land-Revenue Sales Act, 1859,] the words in this section mentioned shall have the meanings therein attributed to them, respectively—

"pro-
prietor."

the word "proprietor" includes any tenant by whom any estate or tenure is held directly ²[under the Government] :

"revenue."

the word "revenue" includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of *takavi*, or of any money advanced by Government to proprietor of land for making or repairing embankments, reservoirs or water courses, or other improvements on the land held by them :

"estate."

the word "estate" means any land or share in land subject to the payment to Government of annual sum in respect of which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act XI of 1859,³ have been opened :

"tenure."

the word "tenure" includes all interests in land, whether rent-paying or *lakhiraj* (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling

¹These words and figures were substituted for the words, figures and brackets "Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency," by sec. 2 and Schedule I of the Bengal Repealing and Amending Act, 1858 (Ben. Act I of 1859).

²The words "under the Crown" were first substituted for the words "under Government" by para. 8 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³The Bengal Land-revenue Sales Act, 1859.

of 1868.]

(Sections 2, 3).

or bringing them to sale for an arrear of rent may not have been specially reserved by stipulation in any instrument :

the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers :

"jurisdiction."

the word "Collector" includes any person vested with the powers of a Collector.

"Collector."

1*

2. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act XI of 1859^a, * * *^b so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section 23 of the said Act XI of 1859^a, or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise ;

Appeals against sales.

and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act XI of 1859^a, which shall appear to him not to have been conducted according to the provisions of the said Act, awarding at the same time to the purchaser a payment from the proprietor of compensation^c for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office ;

and the order of the Commissioner shall in such cases be final.

3. * * *^d The word "thirty" shall be substituted for the word "fifteen" in section 6 of the said Act XI of 1859^a * * *^e.

Time for revenue-sales extended.

^aThe remainder of sec. 1, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

^bThe Bengal Land-revenue Sales Act, 1859.

^cThe words "not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided," were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

^dAs to the recovery under the certificate procedure of sums awarded as compensation under this Act, see sec. 3 (6) and Sch. I of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

^eThe words "From the date when this Act comes into operation," in sections 3 and 4 were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

The words 'and the words "or more than thirty" in the same section shall be omitted therefrom, and the said section shall be read as if the same had not been inserted therein' were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

(Sections 4—6.)

Time for
confirmation
of
sales
extended.

4. * * * *¹ The words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said Act XI of 1859².

Mode of
serving
notices.

5. Every notice in and by this Act, or by the said Act XI of 1859³, directed to be served, shall be served by delivering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

Power to
cause
notices
to be
served for
arrears or
demands.

6. It shall be lawful for the ⁴[State Government] ^{4*} *, by an order published in the ⁵[*Official Gazette*], to empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors * * * *⁶ before proceeding under the provisions of the said Act XI of 1859³ or of this Act, to realize from such proprietors * * * *⁷, any arrears of revenue * * * *⁸ which be due from such proprietors * * * *⁷ ;

and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue * * * *⁹ which may be due from such

¹ See foot-note 5 on page 131, *ante*.

² The Bengal Land-revenue Sales Act, 1859.

³ The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴ The words "of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵ These words were substituted for the words "*Calcutta Gazette*" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶ The words "or persons liable to any demands," were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

⁷ The words "or persons" were repealed, *ibid*.

⁸ The words "or any demands," were repealed, *ibid*.

⁹ The words "or to any demands" were repealed, *ibid*.

of 1868.]

(Sections 7—10.)

proprietor * *¹, and shall be recoverable as if the same were a portion of such arrears of revenue * * *²;

and every such order may from time to time be altered, varied or revoked by any other order of the said ³[State Government] to be from time to time in like manner published.

7. In addition to the notices in and by section 7 of the said Act XI of 1859⁴ directed to be posted, a similar notice shall be posted at the subdivisinal *cutcherry* within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Notices to *raiyats* to be posted in subdivisinal *cutcherry*.

8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act XI of 1859⁴, or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser, and of every person claiming under him, that all notices in or by this Act, or by the said Act XI of 1859⁴, required to be served or posted, have been duly served and posted ;

Certificate to be conclusive evidence of regularity in service of notices.

and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

9. (*Sales of lakhiraj valid*).—*Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).*

10. Every estate shall, for the purposes of this Act and of the said Act XI of 1859⁴, be deemed to be within the Collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction ; but all lands and tenures shall be deemed to be within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector.

Collectorate to include all estates borne on its roll.

¹The words "or persons" were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

²The words "or of such demands" were repealed, *ibid*.

³See foot-note 3 on page 132, *ante*.

⁴The Bengal Land-revenue Sales Act, 1859.

(Sections 11, 12.)

Power
to sell
tenures.

¹11. Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act XI of 1859^a, the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act XI of 1859^a provided for the sale of estates for the recovery of arrears of revenue ;

and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act XI of 1859^a, except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the holder of the estate ;

and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act XI of 1859^a with respect to estates :

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act XI of 1859^a,

in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and police-*thana* of the division in which the tenure to which the notification relates is situated, or, if the tenure be situated within the jurisdiction of more than one Munsif's Court or police-*thana*, in some one or more of such Courts or *thanas*, and also at the *cutcherry* of the *malguzar* or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.

Effect of
sale of
tenure.

12. The purchaser of any tenure sold under the provisions of section 11 of this Act shall acquire it free from all incumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions :—

First.—*Istimrari* or *mukarrari* tenures which have been held at fixed rent from the time of the permanent settlement ;

^aThis section was substituted for the original section by the Bengal Land-revenue Sales (Amendment) Act, 1871 (Ben. Act II of 1871).

^aThe Bengal Land-revenue Sales Act, 1859.

of 1868.]

(Sections 13—30.)

Secondly.—Tenures existing at the time of Permanent Settlement, which have not been held at a fixed rent :

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures ;

Thirdly.—Tenures created or recognised by the settlement-proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement ;

Fourthly.—Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

13. Every purchaser of a tenure under section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power of
enhance-
ment.

14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any *raiyat* having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *raiyat* otherwise than in the manner prescribed by such laws or otherwise than as the former proprietor irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Saving of
rights of
raiyat.

15 to 28. (*Certificates of unliquidated arrears executable as decree of Civil Court ; notice of certificate ; objections to certificate ; enforcement of certificate ; register of certificates ; inspection of register ; entry of satisfaction ; transmission of sums received.*)—Rep. by the Public Demands Recovery Act, 1880) (Ben. Act VII of 1880.)

29. (*Repeal by enactments.*)—Rep. by the Repealing Act, 1873 (XII of 1873).

30. This Act shall be read with, and taken as part of, the Bengal Land-Revenue Sales Act, 1859, as modified for the time being, and all references in this Act to the Bengal Land-Revenue Sales Act, 1859, or any provision thereof shall be deemed to be references to the said Act or provision, as the case may be, for the time being in force.

Construc-
tion of this
Act and
Act XI
of 1859.

¹This section was substituted for the original section by sec. 4 of the Bengal Land-revenue Sales (Amendment) Act, 1942 (Ben. Act VII of 1942).

[Ben. Act VII of 1868.]

(Schedules A—E.)

SCHEDULES A, B, C, D.

*Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903
(1 of 1903).*

SCHEDULE E.

*Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903
(1 of 1903).*

Bengal Act I of 1869

(THE BENGAL CRUELTY TO ANIMALS ACT, 1869)¹.

SUPPLEMENTED	Ben. Act III of 1869.
SHORT TITLE GIVEN	Act I of 1903.
REPEALED IN PART	Act XII of 1873,
REPEALED (IN BENGAL)	Ben. Act I of 1920.
AMENDED	Act I of 1903. Ben. Act III of 1900.
ADAPTED	(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(10th March, 1869.)

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make provision for the prevention of cruelty to animals ;

It is enacted as follows :—

^a1. In this Act, the word “animal,” means any domestic or captured animal. Definition of “animal.”

2. Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive or overload, or cause to be beaten, ill-treated, abused, tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one hundred rupees. Penalty on cruelty to animals.

3. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet any one in so doing, shall be liable to a fine which may extend to fifty rupees. Penalty on baiting animals or inciting them to fight.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette*, of 1868, page 887 ; and for Proceedings in Council, see *ibid*, Supplement, 1868, pages 278 and 877 ; Supplement, 1869, pages 16 and 29.

LOCAL EXTENT.—This Act applies only to the town, and suburbs of Calcutta (see sec. 9), and may be extended to any city, town, station, *bazar*, cantonment, village, district or portion of a district in West Bengal (see sec. 10).

^aSection 1 was substituted for the original section by sec. 1 of the Bengal Cruelty to Animals Act, 1900 (Ben. Act III of 1900).

[Ben. Act I

(Sections 4—5B.)

Penalty on
permitting
diseased
animals to
go at large
or die in
public
places,

4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees.

Penalty for
employing
animal
unfit for
labour,

¹5. If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

Penalty
for practi-
sing *phuka*.

¹5A. If any person performs upon any cow the operation called *phuka* he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Infirmaries,

¹5B. (1) The ²[State Government] may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed.

(2) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for the work or labour on which it has been ordinarily employed.

(3) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police, may from time to time prescribe.

(4) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (2) may prescribe, such Magistrate may direct that animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

¹Sections 5 to 5C were substituted for the original sec. 5 by the Bengal Cruelty to Animals Act, 1900 (Ben. Act III of 1900).

²The words "Provincial Government" were first substituted for the words "Local Government" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para 4 (1) of the Adaptation of Laws Order, 1950.

of 1869.]

(Sections 5C—10.)

¹5C. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Limitation
of prosecution.

6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate of Calcutta.

Trial of
offences in
Calcutta.

7. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure² shall apply to the trial of every such charge.

Trial of
offences out
of Calcutta.

Act XXV
of 1861.

8. [*Repeal of enactments.*].—*Rep. by the Repealing Act, 1873 (XII of 1873).*

9. This Act shall extend to the town of Calcutta and to the suburbs of the town of Calcutta as defined by any notification under section 1 of ³[Bengal Act II of 1866.]

Limit of
Act.

10. It shall be lawful for the ⁴[State Government]^{5***} by an order published in the ⁶[*Official Gazette*] to extend this Act to any city, town, station, bazar, cantonment, village, district or portion of a district, to be mentioned and defined in such order; and from time to time, by any order published, as aforesaid, to revoke, vary, amend or alter any such order.

Power to
extend Act.

¹see foot-note 1 on page 138, *ante*.

²This reference to Act XXV of 1861 must now be taken to be made to the Code of Criminal Procedure, 1898 (Act V of 1898), *see* sec. 3 (1) of the latter Act.

³These words and figures were substituted for the words and figures "the said Act II of 1866" by sec. 3 and the Second Schedule of the Amending Act, 1903 (I of 1903).

⁴The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4 (1) of the Government of India (Adaptation of Indian Laws Order), 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁵The words "of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁶These words were substituted for the words "*Calcutta Gazette*," by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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Bengal Act III of 1869

[THE BENGAL CRUELTY TO ANIMALS (ARREST) ACT, 1869]¹.

SHORT TITLE GIVEN	Act I of 1903.
REPEALED IN PART	Ben. Act I of 1939.
REPEALED (IN BENGAL)	Ben. Act I of 1920.
AMENDED	Ben. Act I of 1939.
ADAPTED	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">(a) The Government of India (Adaptation of Indian Laws) Order, 1937.</div> <div style="margin-right: 10px;">(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.</div> <div>(c) The Adaptation of Laws Order, 1950.</div> </div>

(25th August, 1869.)

*An Act to enable Police-officers to arrest without warrant persons
guilty of cruelty to animals.*

Ben. Act I
of 1869. WHEREAS it is expedient to enable police-officers in certain
places to arrest without warrant any person committing, within
their view, any offence against ²[the Bengal Cruelty to Animals
Act, 1869] ;

It is enacted as follows :—

1. Every Police-officer may arrest without a warrant any
person committing, in his view, any offence against the said Act
I of 1869³. Arrest of
person
guilty of
cruelty.

Ben. Act II
of 1866. 2 This Act shall apply to the Town of Calcutta, as defined
in ⁴[the Calcutta Police Act, 1866], and in the suburbs of the
Town of Calcutta, as the same may from time to time be defined Act to
apply to
Calcutta
and
suburbs.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903
(I of 1903).

LEGISLATIVE PAPERS.—For Proceedings in Council, see the *Calcutta
Gazette* of 1869, Supplement, pages 504, 525 and 542.

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta
(see s. 2), and may be extended to any town, suburb, district or tract of
country in West Bengal (see sec. 3).

²These words and figure were substituted for the words and figures "Act I
of 1869 passed by the Lieutenant Governor of Bengal in Council, entitled an
Act for the Prevention of Cruelty to Animals" by sec. 2 and the First
Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I
of 1939.)

³The Bengal Cruelty to Animals Act, 1869.

⁴These words and figures were substituted for the words and figures "Act
IV of 1866 passed by the Lieutenant-Governor of Bengal in Council," by sec.
2 and the First Schedule of the Bengal Repealing and Amending Act, 1938
(Ben. Act I of 1939).

[Ben. Act III of 1869.]

(Section 3.)

by any notification to be from time to time published by the ¹*
²[State Government], in pursuance of the provisions of ³[the
 Calcutta Suburban Police Act, 1866], and save as hereinafter is
 provided, to such towns and suburbs only.

Ben. Act
 II of 1866.

Power to
 extend
 Act.

3. It shall be lawful for the ²[State Government] of ⁴[West
 Bengal] by a notification to be published in the ⁵[*Official Gazette*],
 to extend this Act to any town, suburbs, district or tract of
 country, to be mentioned and defined in such notification ; and
 from and after the publication of such notification this Act shall
 extend and apply to the town, suburb, district or tract of country
 therein mentioned and defined.

¹The word "said" was repealed by sec. 3 and the Second Schedule of the
 Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²The words "Provincial Government" were first substituted for the words
 "Lieutenant-Governor" by paragraph 4 (1) of the Government of India
 (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was
 substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws
 Order, 1950.

³These words and figures were substituted for the words and figures "Act
 II of 1866" by sec. 2 and the First Schedule of the Bengal Repealing and
 Amending Act, 1938 (Ben. Act I of 1939).

⁴Substituted for the word "Bengal" by para. 3 (2) of the Indian Inde-
 pendence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵These words were substituted for the words "*Calcutta Gazette*" by
 paragraph 4 (1) of the Government of India (Adaptation of Indian Laws)
 Order, 1937.

Bengal Act VII of 1869

(THE BENGAL POLICE ACT 1869.)¹

SHORT TITLE GIVEN	. Act I of 1903.
REPEALED IN PART	. Act I of 1903.
AMENDED	{ Act XXXVIII of 1920. { Ben. Act I of 1939.
	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
ADAPTED . . .	. . . { (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
	(c) The Adaptation of Laws Order, 1950.

(29th September, 1869.)

An Act to amend the constitution of the Police-force in Bengal.

WHEREAS it is expedient that the entire police-establishment in the provinces under the control of the Lieutenant-Governor of Bengal² should cease to be one police-force, and that the said provinces should cease to be one general police-district under one Inspector-General ;

Preamble.

It is enacted as follows :—

1. [Repeal of section 2, Act V of 1861.]—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

2. It shall be lawful for the ³[State Government] ⁴*, from time to time, to divide the said ⁵[States] into as many general police-districts as ⁶[it] may think fit, and from time to time to vary and alter any of such general police-districts, or to consolidate two or more of such general police-districts into one district, as ⁶[it] may think fit.

Power to divide the States into police-districts.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903.)

LEGISLATIVE PAPERS.—For the Statement of Objects and Reasons, *see the Calcutta Gazette* of 1869, page 484, and for Proceedings in Council, *see ibid*, Supplement, 1869, pages 155, 265, 291, 341 and 645.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see* the title and preamble.

²This includes the present State of West Bengal and other territory.

³The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴The words "of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵Substituted for the word "Provinces" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁶This word was substituted for the word "he" by para. 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1957.

[Ben. Act VII

(Sections 3—5.)

Power to
appoint in
districts
persons to
execute
duties of
Inspector-
General.

3. It shall be lawful for the said ¹[State Government] in each such general police-district to appoint some person or exercise in such district the powers of an Inspector-General of Police, whether such person shall or shall not hold any other office under the ²[Government]; and the administration of the police throughout such general police-district, and all powers and authorities by ³[the Police Act, 1861] or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

V of 1861.

Police
establish-
ment in
each dis-
trict to be
considered
one police-
force.

4. The entire police-establishment in every such district shall, for the purposes of ³[the Police Act, 1861], be deemed to be one police-force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, ⁴ * * * * * as shall from time to time be ordered by the said ¹[State Govern-ment]. ⁵ * * * *

⁶[The pay and all other conditions of service of the members of such force below the rank of Deputy Superintendent shall subject to the provisions of the said Act of 1861, be such as may be determined by the State⁷ Government.]

Power to
employ
police out
of district.

5. It shall be lawful for the ¹[State Government] to employ members of the police-force who have been enrolled in, or appointed to, any one general police-district, in any other general police-district within the ²[States] subject³ * * *

¹ See foot-note 3 on page 143, *ante*.

² The word "Crown" was first substituted for the words "said Lieutenant-Governor" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³ These words and figures were substituted for the words and figures "the said Act V of 1861" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁴ The words "and the members of such force shall receive such pay" were omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ The words "subject to the sanction of the Governor-General of India in Council" were omitted, *ibid*.

⁶ These words were inserted, *ibid*.

⁷ Substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁸ See foot-note 5 on page 143, *ante*.

⁹ The words "in the case of officers of the Indian Police of and above the rank of Assistant Superintendent" were omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1869.]

(Section 6.)

* *to ¹[its] control ; and the powers conferred on police-officers by the Code of Criminal Procedure, ²[1898,] may be by them exercised in any portion of the said ³[States] without reference to the local limits of the general police-district to which they may respectively belong.

Act V of 1898.

Construction.

6. This Act shall be read and taken, in the ⁴[territories to which it extends] as part of ⁵[the Police Act, 1861].

¹This word was substituted for the word "his" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

²This figure was inserted by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³Substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the words "provinces under the control of the Provincial Government of Bengal" by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1949.

⁵These words and figures were substituted for the words and figures "the said Act V of 1861" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Bengal Act VI of 1870

(THE VILLAGE CHAUKIDARI ACT, 1870.)

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Bengal Act VI of 1870.¹

(THE VILLAGE CHAUKIDARI ACT, 1870.)²

SUPPLEMENTED . .	Ben. Act I of 1871.
PT. II EXTENDED	{ Ben. Act V of 1876. Ben. Act III of 1884.
REPEALED IN PART	{ Ben. Act V of 1919. Ben. Act I of 1939.
AMENDED	{ Ben. Act I of 1871. Ben. Act I of 1886. Ben. Act VIII of 1922. Ben. Act VIII of 1932. Ben. Act I of 1939.
REPEALED IN PART AND AMENDED.	Ben. Act I of 1892.
ADAPTED	{ (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(19th October, 1870.)

An Act to provide for the appointment, dismissal and maintenance of village-chaukidar.

WHEREAS it is expedient to make provision for the appointment, dismissal and maintenance of village-chaukidars in the provinces subject to the Lieutenant-Governor of Bengal³ ;

Preamble.

It is enacted as follows :—

1. The following words and expressions shall, in the construction of this Act, have the several meanings hereby assigned to them respectively, except where a different intention shall appear from the context (that is say) :—

Definitions.

the words “[“District Magistrate”] shall mean the chief officer charged with the executive administration of a district in criminal matters by whatsoever designation such officer is called :

“District Magistrate.”

* * * * *

¹This Act should be read with sec. 4 and Sch. I of the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957).

²LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the Calcutta Gazette of 1870, page 357 ; and for proceedings in Council, see *ibid.*, Supplement, 1870, pages 53, 179, 305, 333, 349, 365 and 385.

LOCAL EXTENT.—This Act applies to districts and subdivisions in West Bengal to which it is extended by order under sec. 68.

The whole Act except the preamble and sections 1, 48 to 61, 66, 67 and 69 and Schedules C and D are repealed by Ben. Act V of 1919 in areas in which that Act is in force.

³This includes the present State of West Bengal and other territory.

⁴These words were substituted for the words “Magistrate of the District” by sec. 2 (2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁵The definition of “Magistrate” was repealed by sec. 1 (1), *ibid.*

[Ben. Act VI

(Secs. 2, 3.)

"Chauki-
dari
chakaran
lands."

The words "*chaukidari chakaran lands*" shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a *zamindar* :

"Zamin-
dar."

the word "*zamindar*" shall mean the person whose name is registered in the general register of estates paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

2. [Repeal of portion of Regulation XX of 1817.]—Rep. by sec. 3 and the Second Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Appoint-
ment of
Pan-
chayats.

¹3. The District Magistrate may,—

(1) by an order in writing, appoint not less than three nor more than five residents in any village within the district of which he has charge to be the *panchayat* thereof ; or

(2) he may with the previous sanction of the ²[State Government], direct that the adult male rate-paying residents of any village shall select, according to any rules that may be prescribed by the ³[State Government] and published in the ⁴[Official Gazette], not less than three not more than five residents of the village to be the *panchayat* thereof ; and the District Magistrate shall, if he approves of the persons so selected, appoint such persons to be the *panchayat* ; but if in his opinion, any person so selected is for reasons to be recorded by him in writing, unfit to be a member of the *panchayat*, the District Magistrate shall appoint a fit and proper resident to be a member of the *panchayat* :

Provided that no *panchayat* shall be appointed in any place to which the Bengal Municipal Act, ⁴[1932,] has been, or may hereafter be, extended :

Ben. Act
XV of 1932.

¹Section 3 was substituted for the former sec. by sec. 3 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²The words "Provincial Government" were first substituted for the words "Local Government" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³These words were substituted for the words "*Calcutta Gazette*" by para. 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴This figure was substituted for the figure "1884" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1870.]

(Sections 3A—6.)

Provided also that the ¹[State Government] shall be entitled to prescribe that in certain specified local areas, to be notified in the ²[Official Gazette], the number of persons to be appointed to discharge the duties of a *panchayat* may be reduced to one.

³3A. The District Magistrate may from time to time by an order in writing, with the sanction of the Commissioner, delegate his powers under this Act, either wholly or in part, to any Magistrate of the first class subordinate to him, or to any Magistrate in charge of a sub-division or to the District Superintendent of Police; and by a like order, and with the same sanction may withdraw such delegated powers.

Delegation of powers by the District Magistrate.

⁴4. The District Magistrate may, from time to time by an order in writing under his hand, declare any local area or group of dwellings, within the district of which he has charge, to be a village for the purposes of this Act.

Power to define a village.

5. Whenever the majority in number of the adult male residents in any village ⁵* * * shall, by a writing signed by them, apply to the ⁶[District Magistrate] for the appointment of a *panchayat* in such village ⁷***, it shall be lawful for him to appoint a *panchayat* under this Act in such village ⁷* * * without regard to the number of houses therein contained, and all the provisions of this Act shall apply to such *panchayat* and to such village. ⁷* * *

Power to appoint *panchayat* on application of villagers.

⁶6. Whenever any member of a *panchayat* shall die or cease to be a member of such *panchayat*, the ⁹[District Magistrate] shall, by writing under his hand, call on the remaining members of the *panchayat* to nominate within thirty days a fit and proper person to be appointed as member of the *panchayat* in the room of such member so dying or ceasing to be a member, and the ⁹[District Magistrate] shall, unless he considers such nomination improper, appoint the person so nominated to be a member of the *panchayat* :

Succession of member of *panchayat*.

Provided that if no person shall have been so nominated or if in the opinion of the ⁹[District Magistrate] the person nominated is, for reasons to be recorded by him in writing, unfit to be

¹See foot-note 2 on page 150, *ante*.

²See foot-note 3 on page 150, *ante*.

³Section 3A was inserted by sec. 4 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁴Section 4 was substituted for the original section by sec. 5 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁵The words "or in two or more villages so situate as in section 4 is set forth" were repealed by sec. 6, *ibid*.

⁶These words were substituted for the words "Magistrate of the district" by sec. 2 (2), *ibid*.

⁷The words "or villages" were repealed, *ibid*.

⁸Section 6 was substituted for the original section by sec. 8 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

⁹These words were substituted for the word "Magistrate" by sec. 2 (2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

(Sections 7—10.)

appointed a member of the *panchayat*, the ¹[District Magistrate] shall appoint a fit and proper person to be a member of the *panchayat*.

Qualifica-
tion of
members of
panchayat.

7. No person shall be appointed to be a member of a *panchayat* under this Act unless he be a resident in such village or the proprietor or holder of land therein or his local agent :

Provided that such proprietor or local agent shall not be so appointed unless he be resident within one mile from some part of such village.

Penalty on
refusing to
act as
member of
panchayat.

8. If any person, appointed to be a member of a *panchayat*, shall refuse to undertake the office, or wilfully omit to perform the duties thereof, and shall not within ²[thirty days] from the date of his appointment, or from such omission, show grounds to the satisfaction of the ¹[District Magistrate] for such refusal or omission, he shall be liable to a fine which may extend to fifty rupees :

Provided that every person who shall have paid any fine under the provisions of this section shall thereupon cease to be a member of the *panchayat* and shall not be liable to be re-appointed a member of *panchayat* for the space of ³[three years] from the day of the payment of such fine.

Period for
which
panchayat
to be
appointed.

⁴9. Every member of a *panchayat* appointed under section 3 shall be appointed for the term of three years.

Every member of a *panchayat* appointed under section 6 shall be appointed only for a term equal to the unexpired portion of the term for which the member whom he succeeds was appointed.

Exemp-
tion from
serving on
panchayat.

⁵9A. No member of a *panchayat*, after the expiry of his term of office, shall be again appointed a member of a *panchayat*, without his consent till after the lapse of three years.

Appoint-
ment of
fresh
panchayat.

⁶9B. On the expiry of the term for which the members of a *panchayat* were appointed, the ⁶[District Magistrate] shall appoint a new *panchayat* in the manner prescribed in section 3, the outgoing *panchayat* continuing to exercise all the functions of a *panchayat* until such new *panchayat* has been appointed.

Power to
remove
members.

10. It shall be lawful for the ⁶[District Magistrate], by an order in writing signed by him, to remove or discharge any member of a *panchayat*.

¹These words were substituted for the word "Magistrate" by sec. 2 (2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²These words were substituted for the words "fifteen days" by sec. 4. of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

³These words were substituted for the words "two years" by sec. 4 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

⁴Section 9 was substituted for the original section by sec. 5, *ibid*.

⁵Sections 9A and 9B were inserted, *ibid*.

⁶These words were substituted for the words "Magistrate of the District" by sec. 2(2) of the Bengal Village Chaukidari (Amendment) Act 1892 (Ben. Act I of 1892).

of 1870.]

(Sections 11—15.)

¹11. The *panchayat* of a village shall determine the number of chaukidars to be appointed for that village, subject to the approval of the District Magistrate.

Number of
chaukidars.

Ben. Act
VIII of
1923.

Notwithstanding anything contained in this section, the number of chaukidars, employed for any village on the day on which the Bengal Village Chaukidari (Amendment) Act, 1923, comes into operation, shall continue to be the same until altered under the provisions of this section.

²12. The salaries of *chaukidars* appointed for any village shall be determined by the *panchayat* of the village subject to the approval of the District Magistrate.

Salaries of
chaukidars.

³12A. Notwithstanding anything contained in section 12, the salaries of *chaukidars* as in force on the 1st day of September, 1922, shall continue to be paid until altered under the provisions of that section.

Saving of
existing
salaries of
chaukidars.

⁴13. The *panchayat* shall impose an assessment yearly in each village equal to the amount required for the pay and equipment of the *chaukidars*, together with fifteen *per cent.* above such amount, in order to provide for payment of the expenses of collection and losses from the non-realization of the rate from defaulters.

Salaries to
be provided
by assess-
ment.

⁵14. All owners or occupiers of houses in any village, and any person who has within such village a *cutchery* for collecting rents, shall be liable to assessment for the purposes of this Act.

Persons
liable to
assessment.

15. The rate to be levied in any village for the purposes of this Act shall be an assessment according to the circumstances and the property to be protected of the persons liable to the same :

Nature and
amount of
assessment.

Provided that the amount to be assessed on any one person shall not be more than ⁶[one rupee eight annas] *per mensem*, and that all persons who, in the opinion of the *panchayat* are too poor to pay half an anna a month shall be altogether exempt from assessment under this Act.

¹Section 11 was substituted for the original section by sec. 2 of the Bengal Village Chaukidari (Amendment) Act, 1923 (Ben. Act VIII of 1923).

²Section 12 was substituted for the existing section by sec. 2 of the Bengal Village Chaukidari (Amendment) Act, 1922 (Ben. Act VIII of 1922).

³Section 12A was added by sec. 3, *ibid.*

⁴Section 13 was substituted for the original section by sec. 9 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁵Section 14 was substituted for the original section, *ibid.*

⁶These words were substituted for the words "one rupee" by sec. 4 of the Bengal Village Chaukidari (Amendment) Act, 1922 (Ben. Act VIII of 1922).

(Sections 16—22.)

Time and
form of
assessment.

16. The *panchayat* shall, two clear months before the first day of the year current in the village, make such assessment upon the several persons liable thereto, and shall enter the same in a list, which shall specify the name of each person liable to be assessed, the trade, business or other description of such person, and the amount payable monthly by such person, and such list shall be by them published in some conspicuous part of the village at least fifteen days before the expiry of the said two months.

Power to
continue
former
assessment.

17. The *panchayat* may, instead of making a new assessment revise or continue the assessment of the current year, and the assessment so revised or continued shall be in like manner published.

Duration
of assess-
ment.

18. Every assessment so made, revised or continued shall commence and take effect upon the first day of the year current in the village next ensuing the date of publication thereof, and shall remain in force for one year, and until some other assessment properly made or revised under the provisions of this Act shall commence and take effect.

Power to
review
assessment.

19. Any person dissatisfied with the amount at which he has been assessed may, within one month after any publication of any assessment, apply to the *panchayat*, either orally or in writing, for a revision of the assessment, and the *panchayat* may confirm the assessment or amend the same.

District
Magistrate
may revise
assessment.

20. No appeal, as of right, shall lie from any order passed by a *panchayat* as regards the revision of any assessment; but the ¹[District Magistrate] may call for the general list of assessment in any village, and shall so call for such list on the application of ten rate-payers in such village, and may pass such orders on any list so called for as he may think proper.

Rate
payable
quarterly
in advance.

21. Every rate to be payable under this Act shall be payable by equal ²[quarterly] instalments; the instalment of rate on account of each ²[quarter] shall be due on the first day of such ²[quarter].

Allowance
for collec-
ting rate.

22. Every *panchayat* shall appoint one of their number to receive and collect the rate, and to grant receipts for the same and to keep the accounts thereof, and it shall be lawful for the *panchayat* to permit the person so appointed to retain any sum not exceeding ³[ten per cent.] of the amount collected by him to repay the costs of such collection.

¹These words were substituted for the word "Magistrate" by sec. 2 (2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²The words "quarterly" and "quarter," were substituted for the words "monthly" and "month," respectively, with retrospective effect, by sec. 5 of the Bengal Chaukidari (Amendment) Act, 1871 (Ben. Act I of 1871).

³These words were substituted for the words "six per cent." by sec. 7 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

of 1870.]

(Sections 23—29.)

23. The proceeds of every assessment to be levied under this Act in any village, together with any sum which may become applicable to the purposes of this Act, shall constitute a fund, which shall be called the *Chaukidari* Fund of such village.

Constitution of *Chaukidari* Fund.

24. If at the end of any year any surplus of the Fund may remain unexpended, such surplus shall be carried to the credit of the *Chaukidari* Fund for the ensuing year, and the amount to be raised by assessment in such ensuing year may in such case be reduced by the amount of such surplus.

Application of surplus.

25. Every person liable to pay any sum assessed upon him under this Act shall, within seven days after the day upon which any instalment of rate may be payable by him, pay or tender such instalment to the person appointed by the *panchayat* to receive the same.

Payment of instalment to be made within seven days.

26. Immediately after the tenth day of ¹[quarter] the *panchayat* of every village, to which the provisions of this Act extend, shall prepare a list of the persons who may have failed to pay their respective instalments of the rate for such ¹[quarter] showing the amount due from each of such defaulters, and shall publish such list in some conspicuous part of the village.

List of defaulters to be made out.

27. The collecting member of the *panchayat* shall thereupon issue a writing in the form in Schedule A, signed by him, authorizing the *Chaukidar*, or such other person as may be therein named, to levy, by the distraint and sale of sufficient portion of the movable property of such defaulters, the amount of their respective arrears, together with sums equal to such arrears respectively by way of penalty.

Power to distraint for rates.

28. The person so authorized shall seize such movable property of such respective defaulters as he shall deem sufficient and shall make an inventory of all movable property so seized, and shall at the same time give notice by beat of drum of the time and place where movable property shall be sold.

Manner of executing distress.

Such time of sale shall be not less than two days nor more than five days from the time of the proclamation thereof.

29. In case any defaulter shall not, within the time specified by such notice, pay the amount of such arrears payable by him, together with an equal amount by way of penalty, the movable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the place and time

Sale in execution of warrant.

¹This word was substituted for the word "month", with retrospective effect, by sec. 5 of the Bengal Village Chaukidari Act 1871 (Ben. Act I of 1871).

(Sections 30—34.)

specified, and the proceeds shall be applied in discharge of such amount and penalty, and the surplus, if any, shall be returned to the person in possession of the movable property at the time of the seizure.

Objections
to levy
how to be
made.

30. Whenever any person whose name may have been included in any list of defaulters may dispute his liability to pay the amount mentioned in such list or any portion thereof, he may apply to the ¹[District Magistrate] either orally or in writing, stating the grounds of the objection, and the ¹[District Magistrate] shall examine his objection and pass such order thereon as to him shall seem proper.

Custody of
property
distrained.

31. Any property distrained under the provisions of section 28 shall remain in the custody of the *chaukidar*, or of some other person whom the *panchayat* may appoint in that behalf.

What
property
may be
distrained
for rates.

32. All goods and chattels, except plough-cattle and tools and implements of trade or agriculture, found in or upon any house or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear.

If the goods and chattels distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Distress
not to
be levied
after a
year.

33. No arrears of any rate payable under this Act shall be recovered by distress after the expiration of one year from the day on which the same shall have become due.

Irregu-
larities
not to
avoid
distraint.

34. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction, subject to the provisions of section 63 of this Act.

¹These words were substituted for the word "Magistrate" by sec. 2 (2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

of 1870.]

(Sections 35—39.)

¹35. (1) The *panchayat* shall, when a vacancy exists, nominate a person to be a *chaukidar* under this Act, and the ²[State Government] shall if satisfied with such nomination, appoint such nominee to be *chaukidar* :

Appointment and dismissal of *chaukidars*.

Provided that if the *panchayat* fail to nominate within a reasonable time a person to be a *chaukidar*, or the ³[State Government] is not satisfied with such nomination, the ⁴[State Government] shall appoint any person ⁵[it] thinks fit to be a *chaukidar*.

(2) The District Magistrate, or the *panchayat* with the sanction of the District Magistrate, may, from time to time, dismiss any *chaukidar* so appointed.

36, 37. [*Appointment of chaukidars to be registered by police ; power of Magistrate to dismiss chaukidars.*—Rep. by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

38. Every *chaukidar* who may be guilty to any wilful misconduct in his office, or neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code, and not being of so grave a character as in the opinion of the ⁴[District Magistrate] to require his dismissal from his office, shall be liable to a fine which shall not exceed the amount of one month's salary.

Power to fine *chaukidars*.

Act XLV of 1860.

⁶39. Every *chaukidar* appointed under the provisions of this Act shall perform the following duties :—

Duties of *chaukidars*.

1st.—he shall give immediate information to the officer in charge of the police-station within the limits of which the village is situate of every unnatural, suspicious or sudden death which may occur, and of any offence specified in Schedule B which may be committed within his village, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray ;

2nd.—he shall arrest all proclaimed offenders and any person who in his presence commits any offence specified in Schedule B, and any person against whom a hue-and-cry has been raised of his having been concerned in any such offence, whether such offence has been or is being

¹Section 35 was substituted for the original section by sec. 11 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²The words "Provincial Government" were first substituted for the words "District Magistrate" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

³This word was substituted for the word "he" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the word "Magistrate" by sec. 2(2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁶Section 39 was substituted for the former section by sec. 18, *ibid*.

(Sections 40, 41.)

committed within his village or outside of it, and shall, without delay, convey any person so arrested to the said police-station ;

3rd.—he shall, to the best of his ability, prevent, and may interpose for the purpose of preventing, the commission of any offence specified in the said schedule ;

4th.—he shall assist private persons in making such arrests as they may lawfully make, and shall report such arrests without delay to the officer in charge of the said police-station ;

5th.—he shall observe, and, from time to time, report to the officer aforesaid the movements of all bad characters within his village ;

6th.—he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood ;

7th.—he shall report to the officer aforesaid, in a form signed by one member of the *panchayat*, the births and deaths, if any, which have occurred within his village at such intervals as the District Magistrate may determine ;

8th.—he shall report to the officer aforesaid the death or absence for more than two consecutive months of any member of the *panchayat* ;

9th.—he shall supply any local information which the District Magistrate or any officer of police may require ;

10th.—he shall obey the orders of the *panchayat* in regard to keeping watch within his village and other matters connected with his duties as *chaukidar*.

11th.—he shall assist the person collecting the rate in making such collection.

Procedure
on arrest
by *chauki-*
dars.

40. Whenever the *chaukidar* may arrest any person, such *chaukidar* shall forthwith take the person so arrested to the police-station within the limits of which such village is situate :

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Control of
chaukidars
by *pan-*
chayat.

41. The *panchayat* shall exercise a general control over the *chaukidars* and every member of such *panchayat* who may know or be informed of the commission within the village of any offence specified in Schedule B of this Act shall forthwith cause the same to be reported by the *chaukidar* to the officer in charge of the police-station within the limits of which the village may be situate, and, on failure of the *chaukidar*, such member shall himself report the same ¹[or cause the same to be reported] to such officer.

¹These words were inserted by sec. 9 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

of 1870.]

(Sections 42—45.)

¹42. All fines and penalties levied under this Act shall be credited to a District *Chaukidari* Reward Fund, the control over which shall rest with the District Magistrate.

Fines and penalties to be credited to District *Chaukidari* Reward Fund.

²43. Every *chaukidar* shall receive, quarter by quarter the full amount of his salary from such officer ³[as the State Government may, by rules made under this Act, prescribe or direct].

Mode of paying *chaukidars*.

⁴44. Within thirty days after the end of each quarter, every *panchayat* shall pay or remit to such officer or person ⁵[as the State Government may prescribe or direct] under the last foregoing section a sum equal to the pay of the *chaukidar* for the quarter, or any smaller amount which may stand to the credit of the *Chaukidari* Fund of the village.

Panchayat to pay or remit quarterly amounts for payment of *chaukidars*, etc.

45. If it shall appear to the ⁶[District Magistrate] that there is no money to the credit of the Village *Chaukidari* Fund, and that the *panchayat* shall not have taken sufficient steps to realize from defaulters the arrears due from them, the ⁶[District Magistrate] ⁷[may issue his warrant] for the realization of the *chaukidar's* pay from the members of the *panchayat* by distress and sale of their movable property, and shall therein charge some person, therein named, with the execution thereof ;

Mode of realizing *chaukidars'* salary.

and upon such warrant such proceedings shall be had as hereinbefore directed to be had on any writing issued for the recovery of any arrears of the tax by this Act directed to be levied ;

¹Section 42 was substituted for the original section by sec. 14 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²Section 43 was substituted for the original section by sec. 10 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

³The words "as the Provincial Government may, by rules made under this Act, prescribe or direct" were first substituted for the words "or persons as the Magistrate shall appoint" by sec. 15 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892). Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Section 44 was substituted for the original section by sec. 11 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act II of 1886).

⁵The words "as the Provincial Government may prescribe or direct" were first substituted for the words "as the Magistrate may appoint" by sec. 16 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892). Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁶These words were substituted for the word "Magistrate" by sec. 2(2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

⁷These words were substituted for the words "shall issue his warrant" by sec. 12 of the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act I of 1886).

(Sections 46—47.)

and the amount due to such *chaukidar* shall be paid to him out of the amount so levied, and the residue thereof, after payment thereof of all costs and expenses incurred in or about the execution of such warrant, shall be paid to the persons from whom such distress shall have been so levied.

¹[An application for the appointment of a *tahsildar* under section 46A shall not of itself be deemed a sufficient step to realize from defaulters the arrears due from them.]

Reim-
bursement
of member
of *pancha-
yat* by
whom
salary is
paid.

46. Any member of a *panchayat*, from or by whom any sum shall have been levied or paid under the provisions of the section last preceding, shall be reimbursed the amount so levied from or paid by him from any surplus of the Village *Chaukidari* Fund which may remain at the end of the year in which such sum shall have been so levied or paid.

Appoint-
ment of
tahsildar.

²46A. The District Magistrate may at any time, on the application of the *panchayat* of any village, or of his own motion if, in his opinion, the collection of the rate is badly carried out, or if the *chaukidar* is not regularly paid, appoint a *tahsildar* to assist the person collecting the rate; and such *tahsildar* shall exercise all the powers vested in the *panchayat* for the collection of the said rate; and the District Magistrate shall, on a like application, and he may of his own motion, revoke such appointment.

Remune-
ration of
tahsildar.

³46B. Every *tahsildar* appointed under the last foregoing section shall be remunerated at such rate and in such manner as the ⁴[District Magistrate] may, from time to time, with the sanction of the Commissioner of the Division, prescribe; such remuneration shall be levied from those who have failed to pay their *chaukidari* assessments in the same manner and in the same proportion as the *chaukidari* assessment:

Provided that one *tahsildar* may, in the discretion of the ⁴[District Magistrate], be appointed for more than one village.

Power to
revise
assessment.

47. If it shall appear to the ⁴[District Magistrate] that the deficiency of the funds to the credit of the Village *Chaukidari* Fund has been caused by an erroneous assessment, the ⁴[District Magistrate] shall call for the assessment and revise the same as he shall think proper, and shall remit the same to the *panchayat*, and such *panchayat* shall forthwith proceed to levy the sums respectively appearing to be due by such revised assessment.

¹This paragraph was added by the Bengal Village *Chaukidari* (Amendment) Act, 1886 (Ben. Act I of 1886).

²Section 46A was substituted for the former section by sec. 17 of the Bengal Village *Chaukidari* (Amendment) Act, 1892 (Ben. Act I of 1892).

³Section 46B was inserted by sec. 13 of the Bengal Village *Chaukidari* (Amendment) Act, 1886 (Ben. Act I of 1886).

⁴These words were substituted for the word "Magistrate" by sec. 2(2) of the Bengal Village *Chaukidari* (Amendment) Act, 1892 (Ben. Act I of 1892).

of 1870.]

(*Part II.—Chaukidari Chakaran Lands.—Sections 48—54.*)

PART II.

Chaukidari Chakaran LANDS.

48. All *chaukidari chakaran* lands before the passing of this Act assigned for the benefit of any village in which a *panchayat* shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the *zamindar* of the estate or tenure within which may be situate such lands.

Chaukidari chakaran lands to be transferred to zamindars.

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the *panchayat* of the village.

Assessment to be fixed at one-half of value.

50. Such assessment when made by the *panchayat* shall be submitted to the Collector of the district, and he or any other officer exercising the powers of a Collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the *zamindar* to contest the assessment before it is so approved), and after such approval the Collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such *zamindar* such land subject to the assessment so approved.

Collector to make transfer.

51. Such order shall operate to transfer to such *zamindar* the land therein mentioned subject to the amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the *zamindar* may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

Effect of transfer.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the *panchayat* yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

Assessment to be permanent charge on lands.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

Mode of realization.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the *panchayat* shall forward to the Collector of the district in which the land so assessed is situate notice of the amount of such arrear and the name of the person liable to pay such assessment, in the form in Schedule D annexed to this Act.

Notice of arrear.

[Ben. Act VI

(Part II.—Chaukidari Chakaran Lands.—Sections 55—58.)

Mode and
effect of
sale.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed, without any preliminary notice for payment, to issue a notification for sale under section 6 of ¹[the Bengal Land-revenue Sales Act, 1859] ;

XI of 1859.

and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of ²[the Bengal Land-revenue Sales Act, 1868] ;

Ben. Act
VII of 1868.

and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assesment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

Application
of proceeds
of sale.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the *panchayat*, within one week after such sale shall have become final, the amount due for arrears of such assessment, and pay the balance of such proceeds to the person named in the notice from the collecting member of the *panchayat* as the person liable to pay the assessment of such land.

Right to
service
from occu-
pier of trans-
ferred land
to cease.

51. When any land shall have been transferred to any *zamindar* under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

Appoint-
ment of
commis-
sion.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the ³[State Government] of ⁴[West Bengal] by an order to be published in the ⁵[*Official Gazette*], to appoint a commission, consisting of one

¹These words and figures were substituted for the words, and figures "Act XI of 1859, passed by the Legislative Council of India" by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words and figures were substituted for the words and figures "Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council", *ibid*.

³The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the word "Bengal" by para. 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵These words was substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1870.]

(Part II.—Chaukidari Chakaran Lands.—Part III.—
Miscellaneous Provisions.—Sections 59—62.)

or more persons, to ascertain and determine the *chaukidari chakaran* lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

59. Whenever in any district in which such commission shall have been appointed, any question shall arise whether any or what lands are *chaukidari chakaran* lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for such commission to inquire into such question.

Power to refer to commission question relating to *chakaran* land.

60. In inquiring into such question the commission shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822¹ and the Regulations and Acts amending the same upon a Collector making a settlement of land-revenue.

Powers of commission.

61. Such commission shall demarcate the boundaries of any lands which they may determine to be *chaukidari chakaran* lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be *chaukidari chakaran* lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such land be or be not *chaukidari chakaran* lands or other lands as aforesaid.

Duties of commission and effect of their order.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

PART III.

MISCELLANEOUS PROVISIONS.

*62. All powers vested in the *panchayat* for the nomination and dismissal of *chaukidars* and for making the assessments hereinbefore directed to be made may, in case the *panchayat*, after a notice in writing from the District Magistrate to exercise such powers, or any of them, refuse or, after the lapse of a reasonable time in that behalf, neglect forthwith to exercise the same, be exercised by the District Magistrate.

Powers of the *panchayat* may be exercised by the District Magistrate.

¹The Bengal Land-revenue Settlement Regulation, 1822.

*Section 62 was substituted for the original section by sec. 18 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

(Part III.—Miscellaneous Provisions.—Sections 63—66.)

Indemnity
clause.

63. No action shall be brought against the ¹[District Magistrate], nor against any *panchayat*, nor against any member thereof, nor against any of his or their officers, nor against any person acting under his or their direction ;

for anything done or professing or purporting to be done under this Act ;

until the expiration of one month next after notice in writing shall have been delivered or left at the office of the ¹[District Magistrate] and at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff ;

and, unless such notice be proved, the court shall find for the defendant ;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards ;

and, if any person to whom any such notice of action is given shall before action brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Control
vested in
Commissioner of
Circuit.

64. The Commissioner of Circuit shall have a general controlling power over all proceedings of *panchayats* ²* * and ³[District Magistrates] under this Act.

Rules for
guidance
of *pan-*
chayat.

65. The ⁴[State Government] ⁵ * * may, from time to time, frame rules for the guidance of the *panchayats*, for regulating the practice and procedure of any commission in trying or determining any question referred to them, and for any other purposes connected with this Act, and may, from time to time, alter, vary, or revoke the same, and shall publish every such rule or alteration, variation or revocation of a rule in the ⁶[*Official Gazette*] ; and the rules for the time being in force shall, from their publication, have such and the same force and effect as if they were herein enacted.

Duty of
samindar
to report
crimes not
affected.

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any *zamindar*, under any law in force at the time of the passing of this Act to report crimes of offences occurring within his estate or tenure.

¹These words were substituted for the word "Magistrate" by sec. 2(2) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²The words "and Magistrates" were repealed by sec. 2(3) of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

³These words were substituted for the words "Magistrates of districts", *ibid*.

⁴See foot-note 3 on page 162, *ante*.

⁵The words "of West Bengal" were omitted by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1937.

⁶See foot-note 5 on page 162, *ante*.

of 1870.]

(Part III.—Miscellaneous Provisions.—Sections 67—69 and Schedule A.)

67. Nothing in the Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a *panchayat* may not be appointed, of an officer to keep watch in such village and to report crime to the police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him appointed, as if this Act had not been passed.

Village
watch
where
panchayat
not appoin-
ted, not
affected.

68. This Act shall commence and take effect in those districts or subdivisions of districts ^{1*} * * to which the ²[State Government concerned] shall extend it by an order published in the ³[*Official Gazette*]; and thereupon this Act shall commence and take effect in the districts and subdivisions of districts named in such order, on the day which shall be in such order provided for the commencement thereof.

Commence-
ment.

69. This Act may be called the Village Chaukidari Act, 1870.

Short title.

SCHEDULE A.

(Referred to in section 27.)

Form of Distraining Warrant.

ACT VI OF 1870.

Village Chaukidari Fund.

On behalf of the *panchayat* of (). Whereas the several persons named in the list at foot hereof have made default in payment to the said *panchayat* of the sums in the said list set opposite to their respective names, you are hereby authorized and required to levy by distress and sale of a sufficient portion of the movable property of the said defaulters the said several sums set opposite to their respective names together with the additional sums by way of penalty respectively, equal to the sums set forth. Dated day of 18 ,

(Sd.) R. B.,
Collecting member.

Name and description.	Amount.	When due.	Penalty.
B. G.	1-0	1 <i>Baisakh</i>	1-0
K. B.	0-2	1 ..	0-2

¹The words "in the Porvinces subject to the Provincial Government of Bengal" were omitted by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

²The words "Provincial Government concerned" were first substituted for the words "said Provincial Government" by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

³See foot-note 5 on page 162, *ante*.

*(Schedules B and C.)***¹SCHEDULE B.***(Referred to in sections 39 and 41.)**Offences to be reported and for less which a chaukidar may arrest.*

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting coins, causing grievous hurt, riot, administering stupefying drugs, kidnapping, and all attempts and preparations to commit, and abetments of the said offences.

SCHEDULE C.*(Referred to in section 50.)***Form of Transferring Order.***District of*

I, _____ Collector of _____
do by this order under my hand made in pursuance of ²[the Village Chaukidari Act, 1870], transfer to _____, zamindar of _____, the *chaukidari chakaran* lands of the village of _____, in the said _____
bounded _____ and containing _____ bighas _____ cottahs ; _____ to hold unto the said _____ his heirs and assigns subject to the annual _____ rupees payable under the _____ assessment of _____ provisions of the said Act to the *Chaukidari* Fund of the said _____ village and also subject to all contracts binding the said _____ in respect of any lands, portion of the said _____ situated within the said village.

The

day of

18 .

(Sd.) J. S.,
Collector of _____

¹This Schedule was substituted for the original Schedule by sec. 19 of the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892).

²These words and figures were substituted for the words and figures "Act VI of 1870, passed by the Lieutenant-Governor of Bengal in Council" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

of 1870.]

(*Schedule D.*)

SCHEDULE D.

(*Referred to in section 54.*)

Form of Notice of Arrears of Assessment on Land.

Panchayat of

To A. B. Esq., *Collector of*

SIR,

I hereby notify to you that the sum of Rs. being for
one year's assessment payable in respect of the *chaukidari chaka-*
ran land of this village transferred to the *zamindar* of
 became due on the
 day of and that the same is still unpaid, and
that of is the person liable to pay such assessment.
The day of .

(Sd.) E. F.,

Collecting Member of Panchayat.

Bengal Act I of 1871¹

(The Bengal Village Chaukidari Act, 1871.)²

SHORT TITLE GIVEN Act I of 1903.

REPEALED IN PART { Act V of 1897.
Ben. Act V of 1919.
Ben. Act. I of 1939.

REPEALED IN PART AND

AMENDED Ben. Act XVI of 1946.

(25th January, 1871.)

An Act to amend the Village Chaukidari Act, 1870.

Ben. Act
VI of 1870.

WHEREAS it is expedient to amend the provisions of the Village Chaukidari Act, 1870 ; Preamble,

It is enacted as follows :—

1. [Act not to apply till chaukidar appointed.]—Rep. by sec. 3 and the Second Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939.)

2. Whenever a *Panchayat* shall have been appointed in any village, the Magistrate may direct that such *panchayat* shall, within one month after their appointment, make an assessment for the residue of the year according to the year current in the village, upon the persons liable to the payment of the *chaukidari* rate in such village, and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act. Panchayat in certain cases to make assessment within one month.

Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

3. Every assessment so made shall commence and take effect upon the expiration of fifteen days from the publication of such list. Commencement of assessment,

4. Every such assessment shall be deemed to be an assessment made in pursuance of the provisions of the said Act, and the amount thereby assessed may be collected and enforced accordingly. Effect of assessment,

¹This Act should be read with sec. 4 and Sch. I of the West Bengal *Panchayat* Act, 1957 (West Ben. Act I of 1957).

²SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1870, page 2816 ; and for Proceedings in Council, see *ibid*, Supplement, 1870, pages 777, 790, 837 ; *ibid*, Supplement, 1871, page 27.

The whole Act is repealed by Ben. Act V of 1919 in areas in which that Act is in force.

[Ben. Act I of 1871.]**(Secs. 5—7.)**

5. [*Rate payable quarterly instead of monthly.*]*—Rep. by sec. 3 and the Second Schedule of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946.)*

6. [*New clause substituted in section 39 of Ben. Act VI of 1870.*]*—Rep. by the Amending Act, 1897 (V of 1897).*

Construc-
tion.

7. This Act shall be read with, and as part of, ¹[the Village Chaukidari Act, 1870].

¹Substituted by sec. 2 and Sch. I of the Bengal Repealing and Amending Act, 1946 (Ben Act XVI of 1946).

Bengal Act IV of 1871

(THE PURI LODGING-HOUSE ACT, 1871.)

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5. Health Officer when required to report upon lodging-house.
6. Restrictions on power of granting license.
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8. Fee for Health Officer's certificate, and for license.
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10. Power to inspect lodging-houses.
11. Power to exempt lodging-house from inspection.
- 11A. (*Western Bengal*) Persons authorized to inspect deemed public servants.
12. Keeper of lodging-house to produce license.
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13. Keeper of lodging-house to report accidents, deaths and sickness, and names of persons in lodging-house.
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16. Statement under Act to be true.
17. Penalties.
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19. Determination of offences.
20. Power to revoke or suspend licenses.
21. Power to reduce number of lodgers for which license is granted.
- 21A. (*Western Bengal*) Power to grant temporary licenses in cases of urgency.
22. (*Omitted*).
23. Applications to be in writing.
24. Depositing dirt, etc., in highways and sewers.
25. Permitting offensive matter to run into drains or upon highways.
26. Notice to cut trees.
27. Penalty on occupier of house not removing filth.
28. Keeping cattle near highways.
29. Power to license public necessities.
30. Clearing drains and cesspools.
31. Power to set apart tanks for domestic use.
32. Notice to drain and clear vegetation.
33. Power to drain tanks, etc.
34. Power to perform works of which notice is given.
35. Service of notices.
36. Indemnity clause.
37. Power to make by-laws.

Section.

38. By-laws to be confirmed by State Government.

39. (*Repealed*).

40. Short title.

SCHEDULE A.—(*Eastern Bengal*) Application for License.

SCHEDULE B.—(*Eastern Bengal*) License.

Bengal Act IV of 1871

(THE PURI LODGING-HOUSE ACT, 1871)¹.

REPEALED IN PART	{ Act I of 1903. Ben. Act V of 1876.
AMENDED ..	{ Ben. Act II of 1879. Ben. Act V of 1915. Ben. Act I of 1939.
REPEALED IN PART AND AMENDED.	Ben. Act III of 1908.
	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
ADAPTED	(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
	(c) The Adaptation of Laws Order, 1950.

(5th April, 1871.)

²*An Act for the better sanitation of Puri* * * * and regulation of lodging-houses therein.

⁴*An Act for the better sanitation of Puri and other towns in Orissa and regulation of lodging-houses therein.*

Preamble.

²WHEREAS it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Puri, and on the main lines of road leading to Puri, and for the better sanitation of Puri * * * ;

⁴WHEREAS it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Puri and on the main lines of road leading to Puri and for the better sanitation of Puri *and other towns in Orissa* ;

Preamble.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* the *Calcutta Gazette* of 1871, page 152, and for Proceedings in Council, *see* *ibid*, Supplement 1871, pages 23, 30, 127, 150 and 165.

LOCAL EXTENT.—This Act extends *proprio vigore* only to (1) Puri and (2) main lines of road leading to Puri—*see* the preamble and sec. 2. Power was given by section 39 to extend the Act to certain other places ; but that power, it is understood, was never exercised, and the section has since been formally repealed.

Ben. Act II of 1879, sec. 3, empowers the State Government to extend Ben. Act IV of 1871, or any part thereof, by notification, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto. When so extended, certain portions of the Act of 1871 are subject to modification—*See* Ben. Act II of 1879, sec. 3.

The provisions of this Act printed on the left hand column having been in force in Western Bengal are now in force in West Bengal and those printed in the right hand column having been in force in Eastern Bengal are now in force in the Districts of Jalpaiguri, Malda and West Dinajpur only which now form part of West Bengal.

²The title and preamble are in force in this form in West Bengal.

⁴The words “and other towns in Orissa,” in the title and preamble were repealed, in Western Bengal, by sec. 2 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

⁴The title and preamble are in force in this form in Eastern Bengal—*see* also foot-note under “Local Extent”.

(Section 1.)

1. The words and expressions following shall, in this Act, have and bear the meanings and construction hereby assigned to them, unless there be something in the subject or context repugnant to such meaning or construction, that is to say :—

VOLUME II

Strike out the Puri Lodging-house Act, 1871 (Ben. Act IV of 1871) and *insert* the following note, namely:—

[Repealed by West Ben. Act XI of 1964, sub-section (1) of section 3.]

[No. 1, dated the 1st January, 1969.]

"Owner". the word "owner" shall mean the person entitled to the immediate possession of any house ;

"Lodging-house." the expression "lodging-house" shall mean a house licensed under this Act for the reception of lodgers ;

“Keeper of a lodging-house.” the expression “keeper of a lodging-house” shall mean the person to whom a license for the reception of lodgers in any house under this Act shall be granted ;

“The Magistrate,” the expression “the Magistrate” shall mean the Magistrate of the district of Puri or of any other district or part of a district to which this Act may be extended, or other officer in charge of the office of such Magistrate, or specially invested with power under this Act :

"The Health Officer." the expression "the Health Officer" shall mean the person whom the [State Government] shall appoint under this Act.

¹The definition of "lodger" is in force in this form in Western Bengal—see also foot-note under "Local Extent".

The differences in this definition, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

²The words "a pilgrim" in italics in sec. 1 were substituted, in Western Bengal, for the words "an inmate" by sec. 3 (1) of the Puri Lodging house (Amendment) Act, 1908 (Ben. Act III of 1908).

*The definition of "lodger" is in force in this form in Eastern Bengal—
See also foot-note under "Local Extent".

⁴These words in italics in sec. 1 were added to Western Bengal by sec. 8 (2) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

^aThe words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(2) of the Adaptation of Laws Order, 1950.

¹ The words "of Bengal" were omitted by para. 8(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

of 1871.]

(Sections 2—4.)

2. ¹[The State Government may appoint] a Health Officer to control and direct the sanitation and conservancy of the town of Puri and of the main lines of road leading thereto.

Appointment of Health Officer.

3. * * * It shall be lawful for the Magistrate, upon the application of the owner of any house in the town of Puri to grant to such applicant a license for the reception of lodgers in his said house, if the Magistrate be satisfied that such house is fit to be used as a lodging-house.

Power to Magistrate to grant license.

Form of application for license.

²4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be *“in such form as the ³[State Government] may, by notification, prescribe in this behalf,”* and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints.

⁴4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be *in the form set forth in Schedule A of this Act*, and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints.

Form of application for license.

Form of license.

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be *“in such form as the ⁵[State Government] may, by notification, prescribe in this behalf.”*

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be *in the form set forth in Schedule B of this Act.*

Form of license.

¹The words “the Provincial Government may appoint” were first substituted for the words “The Commissioner of the Division is hereby empowered to appoint” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words “From and after this passing of this Act” were repealed by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

³Section 4 is in force in this form in Western Bengal—See foot-note under “Local Extent” on page 175, *ante*.

The differences in sec. 4 as in force in Western Bengal and in Eastern Bengal respectively, lie in the words printed in italics.

⁴These words in italics in sec. 4 were substituted in Western Bengal, for the words “in the form set forth in Schedule A of this Act,” by sec. 4(a) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. III of 1908).

⁵See foot-note 5 on page 174, *ante*.

⁶These words in italics in sec. 4 were substituted in Western Bengal, for the words “in the form set forth in Schedule B of this Act,” by sec. 4(b) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. III of 1908).

⁷Section 4 is in force in this form in Eastern Bengal—See foot-note under “Local Extent” on page 175, *ante*.

[Ben. Act IV]

(Sections 5—7.)

Health Officer when required to report upon lodging-house.

Restrictions on power of granting license.

5. The Health Officer shall, when required by the Magistrate or the owner of any house, certify to the Magistrate the sanitary state and condition of such house, and the nature and extent of the accommodation which such house is capable of affording to lodgers.

6. No license for the reception of lodgers shall be granted under this Act by the Magistrate, unless the Health Officer shall certify in writing under his hand to the Magistrate that in his judgment the house, for the licensing of which for the reception of lodgers application shall have been made as aforesaid, is sufficiently ventilated, and has, within a reasonable distance from such house a sufficient supply of water fit for human consumption, and also sufficient privy accommodation, and is otherwise fit for the reception of lodgers.

The said Health Officer shall also certify to the Magistrate the largest number of lodgers which such house can, having regard to the number of persons permanently residing therein, accommodate with safety to the health of such lodgers; and no license under this Act shall be granted by the Magistrate for the reception in any house of any number of lodgers in excess of the number of lodgers which the Health Officer shall have so certified as aforesaid to be the largest number which such house could accommodate with safety to the health of such lodgers.

Fine on lodging-house keeper not taking out license.

17. * * * Every owner of any house in the town of Puri^a, not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding *“[five]”* rupees for every lodger for each *“[day or]”* night during any part of which such lodger shall be an inmate of such house.

^a7. * * * Every owner of any house in the town of Puri^a, not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding *two* rupees for every lodger for each⁷ night during any part of which such lodger shall be an inmate of such house.

Fine on lodging-house keeper not taking out license.

^aSection 7 is in force in this form in Western Bengal.—See foot-note under “Local Extent” on page 175, *ante*.

The differences in sec. 7, as in force in Western Bengal, and in Eastern Bengal, respectively, lie in the words printed in italics.

⁷The words “After the passing of this Act” were repealed by sec. 4 and the Third Schedule of the Amending Act, 1908 (I of 1908).

⁷In places to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act II of 1879), sec. 3, the name of the place concerned is substituted for “Puri” in sec. 7—see Ben. Act II of 1879, sec. 3.

⁷This word was substituted in Western Bengal, for the word “two,” by sec. 5 (a) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

⁷These words were inserted, for Western Bengal, by sec. 5 (b), *ibid*.

⁷Section 7 is in force in this form in Eastern Bengal.—See foot-note under “Local Extent” on page 173, *ante*.

⁷In places in Eastern Bengal to which this Act has been extended under the Puri lodging-house (Extension) Act, 1879 (Ben. Act II of 1879), sec. 3, the words “day or” are inserted after this word “each” in sec. 7—see Ben. Act II of 1879, sec. 3.

of 1871.]

(Sections 8, 9.)

Fee for
Health
Officer's
certificate,
and for
license.

¹8. There shall be charged upon every certificate of the Health Officer, issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license ²*a fee shall be payable, calculated upon the entire number of lodgers which is mentioned in the certificate, at such rate, not exceeding one rupee for each lodger, as the* ³*[State Government] may, by notification, direct.*

⁴8. There shall be charged upon every certificate of the Health Officer issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license, *a fee, calculated at the rate of eight annas^a for each person, upon the entire number of lodgers mentioned in such license shall be payable.*

Fee for
Health
Officer's
certificate,
and for
license.

Duration
of license.

⁹9. Every license under this Act shall, unless revoked or suspended, continue and be in force ¹*till the thirty-first day of December of the year in which it is granted.*

²9. Every license under this Act shall, unless revoked or suspended, continue and be in force *for twelve calendar months from the day of its date.*

Duration
of license.

¹Section 8 is in force in this form in Western Bengal.—see foot-note under "Local Extent" on page 173, *ante*.

The difference in sec. 8 as in force in Western Bengal, and in Eastern Bengal, respectively, lies in the words printed in italics.

²These words in italics in sec. 8 were substituted, in Western Bengal, for the words "a fee, calculated at the rate of eight annas for each person upon the entire number of lodgers mentioned in such license shall be payable." by sec. 6 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

³See foot-note 5 on page 174, *ante*.

⁴Section 8 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 173, *ante*.

^aIn places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act II of 1879), sec. 3, for the words "the rate of eight annas" in sec. 8 the words "a rate not exceeding one rupee" are substituted—see Ben. Act II of 1879, sec. 3.

¹Section 9 is in force in this form in Western Bengal—see foot-note under "Local Extent" on page 173, *ante*.

The difference in sec. 9 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

²These words in italics in sec. 9 were substituted in Western Bengal for the words "for twelve calendar months from the day of its date" by sec. 7 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

³Section 9 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 173, *ante*.

[Ben. Act IV]

(Section 10.)

Power to
inspect
lodging-
houses.

10. ¹It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any * * * time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women who, according to the custom and manners of the country, ought not to be compelled to appear in public :

10. ²It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any *reasonable* time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women who, according to the custom and manners of the country, ought not to be compelled to appear in public :

Power to
inspect
lodging-
houses.

Provided always that if, in the judgment of the Magistrate such reason shall exist as to necessitate an entry into, and inspection and examination of, such apartments so exclusively used and occupied by such women as aforesaid, it shall be lawful for the Magistrate, upon reasonable notice of such his intention being affixed to the house in which such women are residing, to enter into and inspect and examine, or to authorize under his hand any other person to enter into and inspect and examine, such apartments of such women as aforesaid :

⁴Provided, further, that no entry, inspection or examination shall be made between the hours of 9 p. m. and 6 a. m. except by—

- (a) the Magistrate himself, or
- (b) the Health Officer, if he is also the Civil Medical Officer of the district, or
- (c) an officer, not below the rank of Sub-Deputy Magistrate or Sub-Deputy Collector, who is authorized in writing in this behalf by the Magistrate.

¹This paragraph of sec. 10 is in force in this form in Western Bengal—see foot-note under "Local Extent" on page 178, *ante*.

²The word "*reasonable*," was repealed, in Western Bengal, by sec. 8(1) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

The difference in the paragraph of sec. 10 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the word printed in *italics*.

⁴This paragraph of sec. 10 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 178, *ante*.

⁵This proviso was added to sec. 10 for Western Bengal, by sec. 8(2) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

of 1871.]

(Sections 11—13.)

11. It shall be lawful for the Magistrate to exempt from inspection the house or portion of a house occupied by any lodger, so long as they shall be occupied by such lodger, or until further order by the Magistrate.

Power to exempt lodging-house from inspection.

¹11A. Every person who is authorized in writing under section 10 to enter into, inspect and examine any lodging-house shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Persons authorized to inspect deemed public servants.

Act XLV of 186C.

12. Every keeper of a lodging-house shall produce to the Magistrate, or any officer by the Magistrate authorized to demand the same, the license of such house, whenever he shall be thereunto required by the Magistrate or such officer.

Keeper of lodging-house to produce license.

²12A. Every keeper of a lodging-house shall maintain a register, and shall record therein the name of the person whom he leaves actually in charge of the lodging-house during each period when such keeper is absent therefrom.

Keeper of lodging-house to record name of person left in charge.

Keeper of lodging-house to report accidents, deaths and sickness, and names of persons in lodging-house.

³13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death, or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such birth, death or accident or sickness shall have occurred ;

⁴13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such birth, death or accident or sickness shall have occurred ;

Keeper of lodging-house to report accidents, deaths and sickness, and names of persons in lodging-house.

¹Section 11A was inserted, for Western Bengal by sec. 9 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

²Section 12A was inserted, for Western Bengal, by sec. 10 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

³Section 13 is in force in this form in Western Bengal—see foot-note under "Local Extent" on page 178, *ante*.

The only difference in sec. 13, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁴Section 13 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 178, *ante*.

[Ben. Act IV]

(Sections 14—16.)

and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been ¹*lodgers* of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been *inmates* of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

Lodging-house keeper to exhibit number of house.

²14 (1) Every keeper of a lodging-house shall *expose*, and keep *exposed*, on a conspicuous portion of the front of such house, a notice showing the number of the license and the number of lodgers which he is licensed to accommodate.

(2) *Such notice shall be plainly and legibly inscribed in the Bengali, Hindi and Uriya characters.*

³14. Every keeper of a lodging-house shall *exhibit*, and keep *exhibited*, on a conspicuous portion of the front of such house, the number of the license of *such house* and the number of lodgers which *such person* is licensed to accommodate, plainly and legibly *set forth in Bengali and Uriya*⁴ characters.

Keeper of lodging-house to expose notice.

Report to be kept of inspection and examination of lodging-house.

15. Upon the inspection and examination of any lodging-house, the Magistrate or Health Officer or other person authorized as aforesaid to make such inspection and examination shall record in a register-book to be kept for that purpose a succinct report of the result of such inspection and examination.

Statement under Act to be true.

16. Every person who shall make any application, statement or report, in pursuance of the provisions of this Act, shall be deemed to have been bound by express provision of law to state the truth therein.

¹The word "*lodgers*" in italics in sec. 13 was substituted, in Western Bengal, for the word "*inmates*" by sec. 11 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

²Section 14 was substituted for the original sec. 14, for Western Bengal, by sec. 12 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

The differences in sec. 14 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

³Section 14 is in force in this form in Eastern Bengal—see foot-note under "*Local Extent*" on page 173, *ante*.

⁴In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act II of 1879), sec. 8, the words "*in the character of the vernacular of the district*" are substituted for the words "*in Bengali and Uriya characters*" in sec. 14—see Ben. Act II of 1879, sec. 8.

of 1871.]

(Section 17.)

Penalties.

¹17. ²(1) Every keeper of a lodging-house

in which there shall be, at any time, a number of ³*lodgers* in excess of the aggregate number of ³*lodgers* resident in such house at the date of the application for the license thereof ⁴*, ⁵*, or a number of lodgers in excess of the number of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be ⁶*a lodger* in his house after the revocation or during the suspension of his license,

⁶*shall be liable to be punished by a fine not exceeding five rupees for each lodger so found.*

⁷(2) ⁸Every keeper of a lodging-house

who *refuses or neglects*, without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid

⁹17. Every keeper of a lodging-house

in which there shall be, at any time, a number of *inmates* in excess of the aggregate number of *inmates* resident in such house at the date of the application for the license thereof *and of the number of lodgers mentioned in such license*, or a number of lodgers in excess of the member of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be *an inmate* of his house after the revocation or during the suspension of his license, or

who *shall refuse or neglect*, without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid

Penalties.

¹Section 17 is in force in this form in Western Bengal—see foot-note under "Local Extent" on page 173, *ante*.

The differences in sec. 17, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

²This portion of section 17 was re-numbered section 17(1), for Western Bengal, by sec. 13(1) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

³This word "lodgers" was substituted in Western Bengal for the word "inmates," by sec. 13(2) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

⁴The words "and of the number of lodgers mentioned in such license" were repealed, in Western Bengal, by sec. 13(3) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

⁵The words "a lodger in" were substituted in Western Bengal for the words "an inmate of", *ibid*.

⁶This clause in italics in sec. 17(1) was added, for Western Bengal, *ibid*.

⁷This portion of sec. 17 was re-numbered sub-section (2), for Western Bengal, *ibid*.

⁸These word in italics in sec. 17(2) were substituted in Western Bengal, for the words "or who shall refuse or neglect", *ibid*.

⁹Section 17 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 173, *ante*.

[Ben. Act IV

(Sections 18—20.)

the license for his said lodging-house when he shall be thereunto required, or

the license for his said lodging-house when he shall be thereunto required, or

¹who fails, without reasonable cause, to maintain the register prescribed by section 12A, or to make any entry therein which is prescribed by that section, or

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required,

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required,

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

Persons in charge of lodging-houses responsible.

18. Whenever the keeper of any lodging-house shall not be actually in charge thereof, then the person who shall be actually in charge thereof shall, as well as the keeper thereof, be liable to the penalties hereby provided for any infraction of the provisions of this Act.

Determination of offences.

19. All offences against this Act shall be heard and determined according to the provisions of Chapter XV of the Code of Criminal Procedure.²

Act XXV of 1861.

Power to revoke or suspend licenses.

20. It shall be lawful for the Magistrate to revoke or suspend any license granted under this Act to the keeper of any lodging-house who after the grant of such license, shall have been convicted of any offence against the provisions of this Act, or whose house shall have been certified by the Health Officer to have become unfit or unsafe for occupation as a lodging-house.

¹These words and figures in italics in sec. 17(2) were inserted, for Western Bengal, by sec. 13(6) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

²Act XXV of 1861 was repealed and re-enacted by Act X of 1872 (the Code of Criminal Procedure). Section 2 of, and Sch. V to, the latter Act directed that the reference in the text should be deemed to be made to "Chapter XVI and the provisions applicable to summons cases" in Act X of 1872. Act X of 1872 was repealed and re-enacted by Act X of 1882. This latter Act has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act V of 1898), and this reference should now be taken to be made to Chapters XVI, XVII and XX of that Code—see sec. 8(1) thereof.

of 1871.]

(Sections 21—25.)

21. It shall be lawful for the Magistrate, when it shall be proved to him that any licensed lodging-house is unfit for the accommodation of the number of lodgers mentioned in the license, to reduce the number of lodgers mentioned in the license thereof to such number as may be able to obtain suitable accommodation in such house, and to enter in the license of such house such diminished number.

Power to reduce number of lodgers for which license is granted.

21A. Where, in cases of urgency, the Magistrate is satisfied that sufficient accommodation cannot be provided in the licensed lodging-houses for all the pilgrims visiting the town, he may grant temporary licenses on such terms as he may think fit, and may charge for any such license such fee as he thinks fit, not exceeding the fee payable for a license under section 8.

Power to grant temporary licenses in cases of urgency.

22. [*Fees and fines recoverable under Act to go towards sanitary improvement.*—Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

23. All applications to the Magistrate or Health Officer under this Act shall be made in writing.

Applications to be in writing.

24. Whoever :

deposits, or permits his servants to deposit, any dust, dirt, dung, ashes or refuse, or filth of any kind, or any animal-matter, or any broken glass or earth-ware or other rubbish, in any public highway, except in such convenient spots, and in such manner, and at such hours as shall be fixed by the Magistrate with the assent of the Health Officer, or

Depositing dirt, etc., in highways and sewers.

throws or puts, or permits his servants to throw or put, any such substance into any public sewer or drain, or into any drain communicating therewith,

shall be liable to a fine not exceeding ten rupees.

25. Whoever

causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain or be thrown or put upon any public highway, or

causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any such highway,

shall be liable to a fine not exceeding ten rupees.

Permitting offensive matter to run into drains or upon highways.

¹Section 21A was inserted, for Western Bengal, by sec. 14 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

(Sections 26—31.)

Notice to
cut trees.

26. The Magistrate may give notice to the owner or to the occupier of any land to cut and trim any hedges or trees which overhang any public highway so as to obstruct the passage, or to interfere with the free circulation of air.

Penalty on
occupier of
house not
removing
filth.

27. Whoever, being the occupier of a house in or near any public highway,

keeps or allows to be kept for more than twenty four hours, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or

suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, shall be liable to a fine not exceeding fifty rupees.

Keeping
cattle near
highways.

28. Whoever, being the owner or keeper of any cattle, sheep or pigs,

suffers the stall, pen or place in which they are kept, in or near any public highway, to be in a filthy or noxious state, or

neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding twenty rupees, and to a fine not exceeding three rupees for every day after conviction for such offence during which the offence is continued.

Power to
license
public
necessaries.

29. The Magistrate may license such necessities for public accommodation as he from time to time may think proper ; and whoever shall keep any public necessary without such license, or, having a license for a public necessary, shall suffer the same to be in a filthy or noxious state, or shall neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty rupees, and such license may be withdrawn.

Clearing
drains and
cesspools.

30. Whoever, being the owner or occupier of any private drain, privy or cesspool, shall neglect or refuse, after warning from the Health Officer, to keep the same in proper state, shall be liable to a fine not exceeding fifty rupees.

Power to
set apart
tanks for
domestic

31. It shall be lawful for the Magistrate, with the assent of the Health Officer, to appropriate to the domestic use of the inhabitants of Puri, or of any other towns to which this Act may be extended, any tank not being a private tank ;

and whoever shall bathe in any tank so appropriated to the domestic use of the inhabitants of the place, or

shall wash or cause to be washed therein any animal, or any wool, cloth or wearing-apparel, or any utensils for cooking or other purposes, or leather or the skin of any animal, or any foul or offensive thing, or

shall put or cause to enter therein any animal, or any gravel, stone, dirt or rubbish, or any dirt, filth or other noxious thing, or

of 1871.]

(Sections 32—35.)

shall cause or suffer to run, drain or be brought thereunto the water of any sink, sewer, drain or any other unwholesome, or offensive liquid, or

shall do anything whatsoever whereby the water in any such tank shall be in any degree fouled or corrupted,

shall be liable to a fine not exceeding fifty rupees.

32. Whenever any lands or premises, being private property or within any private enclosure, appear to the Health Officer to be, by reason of thick or noxious vegetation or want of drainage, in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner or occupier of the premises to clear and remove such vegetation, or drain such premises.

Notice to
drain and
clear
vegetation.

33. The Magistrate may from time to time, as he may see fit, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond or other receptacle of water which shall appear to the Health Officer to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be or be not within any private enclosure or be or be not the private property of any person.

Power to
drain
tanks, etc.

34. In case any person to whom any notice, warning or order under the provisions of section 26, 30 or 32 shall be given shall, without sufficient reason, for eight clear days after service upon him of such notice or order, neglect or refuse to comply therewith, or shall not proceed with due diligence in the completion of the works thereby required,

Power to
perform
works of
which
notice is
given.

it shall be lawful for the Magistrate to cause to be performed the works in or by such notice required to be performed and for that purpose to enter into or upon, and to cause workmen and servants to enter into and upon, lands belonging to, or in the occupation of, such person, and to do all things needful or useful to the performance of such work ;

and the Magistrate shall make an order under his hand certifying the expense incurred in or about the performance of such works and ordering the payment of such amount by the owner or by the occupier of the lands on which such works may have been performed ;

and such amount may be recovered from the person named therein as if it had been a fine for an offence against any of the provisions of this Act.

35. Every notice, warning, order or summons, under any of the preceding sections of this Act may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode.

Service of
notices.

[Ben. Act IV]

(Section 36.)

If such notice, warning, order or summons relates to any house, building or land, and the place of abode of the person whom it is intended to affect by such notice, warning, order or summons is unknown or is not within the town in which such house, building or land is situate, the same shall be deemed to be duly served if put up in some conspicuous part of the house, building or land to which the same relates.

Indemnity-
clause.

¹36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act,

until the expiration of ²*two months* next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff ;

and, unless such notice be proved, the Court shall find for the defendant ;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards ;

and, if any person to whom any such notice of action is given shall, before action

Indemnity-
clause.

³36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act,

until the expiration of *one month* next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff ;

and unless such notice be proved, the Court shall find for the defendant ;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards ;

and, if any person to whom any such notice of action is given shall, before action

¹Section 36 is in force in this form in Western Bengal—see foot-note under "Local Extent" on page 173, *ante*.

The only difference in sec. 36, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

²These words in italics in sec. 36 were substituted, in Western Bengal, for the words "one month" by sec. 15 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

³Section 36 is in force in this form in Eastern Bengal—see foot-note under "Local Extent" on page 173, *ante*.

of 1871.]

(Sections 37—40.)

brought, tender sufficient brought, tender sufficient
amends to the plaintiff, such amends to the plaintiff, such
plaintiff shall not recover. plaintiff shall not recover.

37. It shall be lawful for the Magistrate, with the assent of the Health Officer, and the Civil Surgeon of the district if he be not the Health Officer, to make by-laws, and to repeal, alter and amend the same subject to the confirmation hereinafter mentioned,

Power to
make
by-laws.

for the management of all matters connected with the conservancy of the town of Puri or of any other town to which this Act may be extended, and

for regulating the encampments, lodging and halting places of pilgrims on their journey to or from Puri or such other town as aforesaid, and

for preventing the spread of epidemics amongst such pilgrims while at Puri or such other town as aforesaid, or on the journey thereto or therefrom, and

to affix fines as penalties for the infringement of such by-laws :

Provided that no by-law shall be repugnant to any law in force, and that no fine for any one infringement of a by-law shall exceed twenty rupees, and that in case of a continuing infringement no fine shall exceed five rupees for every day after notice from the Magistrate of such infringement.

38. No by-law or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the ¹[State Government] ²² and shall have been published for such length of time and in such manner as the ¹[State Government] ²² shall order.

By-laws
to be
confirmed
by State
Govern-
ment.

39. *[Provision for extending Act to Bhubaneshwar, Jajpore, any towns or villages in Orissa used as pilgrim stages, or any villages in Orissa on the line of road habitually traversed by pilgrims.]—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).*

40. This Act may be called the Puri Lodging-house Act, 1871.

Short title.

¹ See foot-note 5 on page 174, ante.

²² The words "of Bengal" were omitted by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

(Schedule A.)

SCHEDULE A¹

Application for License.

I, _____, the owner of house No. _____, in the town of _____, hereby request that a license may be granted to me, under the provisions of ²[the Puri Lodging-house Act, 1871], for the reception of lodgers in my said house.

1	2	3	4	5	6	7
Name of the street in which the house is situated, or other sufficient description of its locality.	Name of owner applying for license.	Whether sole owner of house or not.	Whether applicant has been previously convicted of any offence against the provisions of this Act, or not.	Number of lodgers applicant desires to obtain license for accommodating in his said house.	Number, description and size of apartments in which applicant desires to accommodate lodgers.	Number of inmates now residing in applicant's said house.

I, _____, the above-named, do declare that what is stated in the above application for a license is true to the best of my information and belief.

(Signature) _____

¹Schedule A is referred to in sec. 4, *ante*. It is in force in Eastern Bengal only, having been repealed in Western Bengal by sec. 4(2) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

²These words and figures in Schedules A and B were substituted for the words and figures "Act No. IV of 1871 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1988 (Ben. Act I of 1989).

of 1871.]

(Schedule B.)

SCHEDULE B¹

License.

A. B.,
No. _____, the owner of house
_____ in the town of Puri², is hereby licensed to
receive _____ lodgers in his said house in
apartments thereof, subject to the provisions of ³[the Puri
Lodging-house Act, 1871.]

The Registered number of this license, upon which a fee of
rupees _____ has been paid is No. _____

(Signature)_____

Magistrate of

district.

¹Schedule B is referred to in sec. 4 *ante*. It is in force in Eastern Bengal only, having been repealed in Western Bengal by sec. 4(2) of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

²In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act II of 1879), sec. 3, the name of the place concerned is substituted for "Puri" in Sch. B—*see* Ben. Act II of 1879, sec. 3.

³*See* foot-note 2 on page 188, *ante*.



Bengal Act IV of 1873

(THE BENGAL BIRTHS AND DEATHS REGISTRATION ACT, 1873.)¹

SUPPLEMENTED . .	..	Ben. Act III of 1884.
SHORT TITLE GIVEN	..	Act I of 1903.
AMENDED . .	..	Ben. Act I of 1939.
ADAPTED . .	..	{ (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.

(2nd July, 1873.)

An Act for Registering Births and Deaths.

WHEREAS it is expedient to provide the means for a complete register of births and deaths ; Preamble.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903), Sch. I.

LOCAL EXTENT.—Since this Act contains no local extent clause, it must be taken to have been intended to extend to the whole of the former Province of Bengal ; but it applies only to areas specially notified under sec. 1.

OTHER ENACTMENTS.—As to the registration of births and deaths under the present Act, in the Municipalities, *see* the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

As to the registration of births and deaths in the Calcutta Municipality, *see* the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), Ch. XXXI.

As to the registration of births and deaths under the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885), *see* sec. 114 of that Act.

As to reports by village *Chaukidars* of births and deaths, *see* the Village Chaukidari Act, 1870 (Ben. Act VI of 1870), sec. 39, cl. 7.

As to the registration of births and deaths under the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), *see* sec. 26 (3) of that Act.

As to reports by *chauidars* of births and deaths, *see* sec. 23 (1) (vii), *ibid*.

For power to make rules as to the registration of births and deaths in Cantonments, *see* the Cantonments Act, 1924 (II of 1924), sec. 282(1).

As to the voluntary registration of births and deaths, *see* the Births, Deaths and Marriages Registration Act, 1886 (VI of 1886).

As to the transmission to the Registrar-General of Births and Deaths in England of registers of, or documents showing, births and deaths of officers and soldiers and their families abroad, *see* the Registration of Births, Deaths and Marriages (Army) Act, 1879 (42 and 43 Vict., c. 8), in the Collection of Statutes relating to India, Vol. I, 1935, page 883.

As to the duties of Registrars of Births in connection with the vaccination of children, *see* the Bengal Vaccination Act, 1880 (Ben. Act V of 1880), sections 18 to 24.

(Sections 1—5.)

It is hereby enacted as follows :—

Power to direct registration of births and deaths and define area.

1. The ¹[State Government] may at any time, by a notification published in the ²[*Official Gazette*], direct that all births and deaths, or all births, or all deaths, occurring within the limits of any area after a certain date to be named in such notification shall be registered, and for that purpose may define the limits of such area.

From and after such date this Act shall apply to the whole of the area so defined.

Magistrate may divide area into districts and may appoint registrars.

2. The Magistrate of the district³ may, for the purpose of such registration, divide any such area into such and so many districts as he may think fit, and may appoint one or more persons to be registrars of births or of deaths, or of births and deaths, within such district, and may at any time for sufficient reason dismiss any such registrar and may fill up any vacancy in the office of registrar.

Magistrate to publish list of registrars.

The Magistrate shall cause to be published a list containing the name and place of office of every registrar in the area, and specifying the hours of the day during which such registrar shall attend at his office for the purpose of registration.

Every registrar to have an office within his district.

3. Every registrar shall have an office within the district of which he is appointed registrar, and shall cause his name, with the addition of registrar of births (or of deaths, or of births and deaths according to his appointment) for the district for which he is so appointed, and notice of the hours during which he will attend for the purpose of registration, to be affixed in some conspicuous place on or near the outer door of his office.

Magistrate to have register-books prepared and numbered.

4. The Magistrate shall cause to be prepared a sufficient number of register-books for making entries of all births or deaths or both, according to such forms as the ¹[State Government] may from time to time sanction ; and the pages of such book shall be numbered progressively from the beginning to the end : and every place of entry shall be also numbered progressively from the beginning to the end of the book, and every entry shall be divided from the following entry by a line.

Registrar to inform himself of, and register, births and deaths.

5. Every registrar shall inform himself carefully of every birth, or of every death, or of both, according to his appointment, which shall happen in his district, and shall register, as

¹The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²Substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Now District Magistrate—see the Code of Criminal Procedure, 1898 (Act V of 1898), sec. 8(2).

of 1873.]

(Sections 6—8.)

soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms mentioned in the last preceding section, touching every such birth or every such death, as the case may be,¹ which shall not have been already registered.

6. Every *chaukidar* or other village-watchman in any area to which this Act shall apply, or, where there is no *chaukidar* or other village-watchman, such person as the Magistrate may appoint, shall be required to report every birth or death occurring within his beat to such registrar and at such periods as the Magistrate may direct.

Chaukidar to obtain particulars and to report to registrar.

He shall obtain in writing, if possible, and if it is impossible for him to obtain in writing he shall obtain verbally, from any person who is bound to give information of the birth or death all particulars which are required to be known and registered and he shall report such particulars to the registrar.

Any *chaukidar* or other village-watchman or other person so appointed who wilfully or negligently refuses or omits to produce such writing, if any, or to report such birth or death, shall be punishable at the discretion of the Magistrate with fine which may extend to two rupees.

Penalty for neglect.

7. The father or mother of every child born within such area, or in case of the death, illness, absence or inability of the father and mother, the midwife assisting at the birth of such child, shall, within eight days next after the day of every such birth, give information, either personally or in writing, to the registrar of the district, or by means of the *chaukidar* or other village-watchmen, or other person as provided in the last preceding section, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Persons bound to give information of birth.

Any person who refuses or neglects to give any information which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees :

Penalty for neglect.

Provided that not more than one person shall be punishable at the discretion of the Magistrate for such refusal or neglect to give information.

8. The nearest male relative of the deceased present at the death, or in attendance during the last illness of any person dying, within such area, or in the absence of any such relative, the occupier of the house, or, if the occupier be the person who shall have died, some male inmate of the house in which such death shall have happened, shall, within eight days next after the day of such death, give information either personally or in writing to the registrar of the district¹, or by means of the *chaukidar*

Persons bound to give information of death.

¹Or any sub-registrar appointed for a burning-ghat or burial ground—see the Bengal Municipal Act, 1932 (Ben. Act XV of 1932), sec. 446.

As to duty of medical officer in charge of hospital to give notice of death, see sec. 447, *ibid.*

SCHEDULE B.*(Referred to in section 12.)*

Notice is hereby given that, under the provisions of section 11¹ of the Bengal Embankment Act, 1873, the land hereunder specified has been taken up, and notice thereof has been given to the Collector of

1	2	3
<i>Pargana</i> in which land is situated.	Name of village in which land is situated.	Approximate boundaries and area of land.

The day of

A. B..

Collector of

¹Section 11 of this Act was repealed by the Bengal Embankment Act, 1882 (Ben. Act II of 1882), sec. 2.

of 1873.]

(Schedule C.)

SCHEDULE C.

(Referred to in section 26.)

All persons interested are required to take notice that under the provisions of section 11¹ of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of *(here state particulars of the land taken)*, and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at , and to state the nature of their respective interests in such land and the amount and particulars of their claims to compensation for such interests.

The day of

A. B.
Collector of

¹Section 11 of this Act was repealed by the Bengal Embankment Act, 1882 (Ben. Act II of 1882), sec. 2.

(Schedule D.)

SCHEDULE D.¹(Referred to in sections 34, 35 and 40.)²

No. 1.

*Right Embankment on the Shilai River from Ishangar to Kola.**(Excluded by Notification No. 338, dated the 19th December, 1893, published in "Calcutta Gazette" of 1893, Pt. I, page 1072.)*

No. 2.

*Right Embankment on the Shilai River from Chota Rupram to Naruya.**(Excluded by Notification No. 338, dated the 19th December, 1893, published in "Calcutta Gazette" of 1893, Pt. I, page 1072.)*

No. 3.

*Right Embankment on the Shilai River from Srirampur to Ganchia.**(Excluded by Notification No. 5-I., dated the 19th April, 1927, published in the "Calcutta Gazette" of 1927, Pt. I, page 877.)*

No. 4.

*Left Embankment of the Shilai River from Karshi to Kalukadi.**(Excluded by Notification No. 338, dated the 19th December, 1893, published in "Calcutta Gazette" of 1893, Pt. I, page 1072.)*

¹Section 48 of the Bengal Embankment Act, 1882, authorizes the inclusion of other embankments or the water-courses in this Schedule and the exclusion of embankments or water-courses therefrom. The Schedule has been amended in accordance with the several notifications and orders which have been issued under these powers.

²Sections 34, 35 and 40 of this Act, were repealed by sec. 2 of the Bengal Embankment Act, 1882 (Ben. Act II of 1882).

Section 4 of the Bengal Embankment Act, 1882, declares that the embankments mentioned in this Schedule shall be held on behalf of the Government.

Section 42 of the Bengal Embankment Act, 1882, declares that sections 47, *et. seq.* of Part VI of that Act shall not apply to any embankments for the time being included in this Schedule, except in certain cases, and also declares that all sums payable in respect of works or repairs executed in or in relation to such embankments shall, with certain exceptions, be paid by the Government.

of 1873.]

(Schedule D.)

No. 5.

Left Embankment of the Shilai River from Baghpota to Radhachak.

This is a continuous line of embankment on the left bank of the Shilai river, 20 miles 680 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bāghpotā of *pargana* Chandkrakona, and terminates at a masonry-pillar in the village of Rādhāchāk of *pargana* Baradā.

(The portion of this Embankment 12 miles in length from 0 to 12th mile stones was excluded from this Schedule by Notification No. 5-I., dated the 19th April, 1927, published in the "Calcutta Gazette" of 1927, Pt. I., page 877.)

(The portion of this Embankment from 12th mile to 20th mile 680 feet was excluded by Notification No. 10-I., dated the 23rd February, 1931, published in the "Calcutta Gazette" of 1931, Pt. I, page 258.)

No. 6.

Left Embankment of the Dwarkeshwar and Sankra Rivers.

(Excluded by Notification No. 22-I., dated the 17th November, 1930, published in the "Calcutta Gazette" of 1930, Pt. 1, page 1860).

No. 7.

Right Embankment of the Dwarkeshwar and Jhumi Rivers.

This is a continuous line of embankment on the right bank of the Dwārkeshwar and Jhumi Rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digdi of *pargana* Baydā and terminates at a masonry-pillar in the village of Soi of *pargana* Baradā.

No. 8.

Left Embankment on the Bakshi Khal.

This is a continuous line of embankment on the left bank of the Bakshi *khal*, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshi of *pargana* Khariji Mandalghāt, and near the junction of the Rupnarain river and Bakshi *khal*, and terminates at a masonry-pillar in the village of Gaighati in the said *pargana* where the Gaighati *khal* leaves the Damodar.

(Schedule D.)

No. 9.

Right Embankment on the Rupnarain River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373, feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Machnan masonry-sluice on the right bank of the Durbachati *khal*, in the village of Machnan of *pargana* Mandalghat, and terminates at a masonry-pillar at the zero mile-post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal toll-house, the village of Kamalpur of *pargana* Mahishadal.

[The following Notification has been published with respect to this embankment :—

Notification No. 224, dated the 11th November, 1902, published in the "Calcutta Gazette" of 1902, Pt. I, page 1488.

In modification of the description of the right embankment on the Rupnarain river, being No. 9 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information :—

No. 9.

Right Embankment on the Rupnarain River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Jassur masonry-sluice on the right bank of the Durbachari *khal*, in the village of Salika of *pargana* Mandalghat, and terminates at a masonry-pillar on the bank of the Panka *khal*. This masonry-pillar is 240 feet north of the Pile Bridge over the Banka *khal*, in the village of Kamalpur in *pargana* Mahishadal.

NOTE.—26 miles 894 feet are maintained by the Public Works Department, and the remaining 3 miles 1,479 feet, being portion of the embankment through Tamluk, are in charge of the Municipality and the District Board.

No. 10.

Right Embankment on the Payratungi Khal.

This is a continuous line of embankment on the right bank of the Páyrátungi *khal*, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Páyratungi of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar distant 187 feet west of a temple on the Tamluk Road, in the village of Bárapadubasan in the said *pargana*.

of 1873.]

(Schedule D.)

No. 11.

Left Embankment on the Payratungi Khal.

This is a continuous line of embankment on the left bank of the Páyrátungi *khal*, 4,370 feet more or less, in length. It commences at a masonry-pillar in the ground in the village of Páyrátungi of *pargana* Tamluk, and on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Bárapadubasan in the said *pargana*.

No. 12.

Right Embankment on the Gangakhali Khal.

This is a continuous line of embankment on the right bank of the Gángákháli *khal*, 3 miles 3,430 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudhápur of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar, distant 675 feet east of the Raghunáthpur masonry-sluice in the village Sayadpur in the said *pargana*.

No. 13.

Left Embankment on the Gangakhali Khal.

This is a continuous line of embankment on the left bank of the Gángákháli *khal*, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishadá of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar, distant 170 feet north-east of the Raghunáthpur masonry-sluice on the right bank of the Gángákháli *khal*, in the village of Raghunáthpur in the said *pargana*.

No. 14.

Right Embankment on the Shuadighi Khal.

This is a continuous line of embankment on the right bank of the Shuádighi *khal*, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighi of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Jasho-mantapur in the said *pargana*.

No. 15.

Left Embankment on the Shuadighi Khal.

This is a continuous line of embankment on the left bank of the Shuádighi *khal*, 2 miles 1,690 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighi of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Hoglá in the said *pargana*.

(Schedule D.)

No. 16.

Right Embankment on the Durbachati Khal.

This is a continuous line of embankment on the right bank of the Durbáchati khal, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhudaha Factory Chimney in the village of Bhudaha of *pargana* Mandalghát, and terminates at a masonry-pillar distant 57 feet south-east of the Máchnán masonry-sluice in the village of Machnan in the said *pargana*.

[The following Notification has been published with respect to this embankment :—

Notification No. 223, dated the 11th November, 1902, published in the "Calcutta Gazette" of 1902, Pt. I, page 1488.

In modification of the description and length of the right embankment on the Durbachati khal, being No. 16 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information :—

No. 16.

Right Embankment on the Durbachati Khal.

This is a continuous line of embankment on the right bank of the Durbachati khal, 2 miles 960 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhudaha Factory Chimney in the village of Bhudaha of *Pargana* Mandalghat, and terminates at a masonry-pillar, distant 57 feet south-east of the Jassur masonry-sluice in the village of Salika in the said *pargana*.]

No. 17.

Mohamkhali Circuit Embankment.

This is a circuit embankment 28 miles 3, 258 feet, more or less, in length. It commences at a masonry-pillar fixed in the village of Kultikri where the Mohankháli river runs into the Rupnarain river, and passing along the right bank of the Mohankháli river through the villages of Jothghanashyám, Sitápur Mánuyá to Basantapur, where the Mohankháli and Durbáchati rivers bifurcate, thence skirting the left bank of the Durbáchati river it passes through the villages of Shápur, Basáripur, and Brahmagriha to Káchdá, thence skirting the Rupnarain, right bank, it passes through the village Dudhkomrá and Bágchená, and terminates at the masonry-pillar aforesaid.

No. 18.

Pannah Circuit Embankment.

(Excluded by Notification No. 5-I, dated the 19th April, 1927, published in the "Calcutta Gazette" of 1927, Pt. I, page 877.)

of 1873.]

(Schedule D.)

No. 19.

Ghatal Circuit Embankment.

This is a circuit embankment 10 miles 1850, feet more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its bifurcation with the Argará river, and passing along the left bank of the Shilái river and through the villages of Shrirámpur, Búsudebpur and Sinhapur, it skirts the right bank of the Argará *khal* through the villages of Ramchandrapur, Raghunáthchak, and others, and terminates at the masonry-pillar aforesaid.

(The following portion of this embankment was excluded from this schedule by Notification No. 5-1, dated the 19th April, 1927, published in the "Calcutta Gazette", 1927, Pt. I, page 877, namely :—

A portion of this Embankment 7½ miles in length from 0½ to 8½ miles.

The following portion was excluded from this schedule by Notification No. 2-1, dated the 6th January, 1931, published in the "Calcutta Gazette" of 1931, Pt. I, page 67, namely :—

A portion of this Embankment from 8½ mile post to 1,500 feet beyond the 10th mile in the district of Midnapore.)

No. 20.

Shekpur Circuit Embankment.

This is a circuit embankment, 18 miles 5,108 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the bifurcation of the river Sákrá and Jhumi in the village of Shekpur of *pargana* Baydá, and passing along the left bank of the Jhumi river through the villages of Shrimantapur, Anandapur and Thákrunchak, thence along the right bank of the Sákrá river through the villages of Narasinhachak, Kulát, Gujrát and others, terminates at the aforesaid masonry-pillar.

(The portion of this embankment from mile post 6 to mile post 14 was excluded from this schedule by Notification No. 12-1, dated the 7th March, 1931, published in the "Calcutta Gazette" of 1931, Pt. I, page 305.)

No. 21.

Khasbar Circuit Embankment.

(Excluded by Notification No. 12-1, dated the 7th March, 1931, published in the "Calcutta Gazette" of 1931, Pt. I, page 305.

(Schedule D.)

No. 22.

Chetuya Circuit Embankment.

This is a circuit embankment, 45 miles 1,420 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the junction of the Rupnarain river and Mohankháli *khal* in the village of Mahishghátá, *pargana* Khárijí Mandalghát and passing along the left bank of the Mohankháli *khal* through the villages of Dakhidbar, Gaurichak, Govindanagar and Basantapur, thence along the left bank of the Kánsái river through the villages of Kolá, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Surathpur, Raghunáthpur and Konnagar, to the junction of the Shilái and Rupnáráin rivers at Pratáppur, and thence along the right bank of the Rupnáráin river through the villages of Harishpur, Jalkarnáram, Ránichak and Gopiganja, it terminates at the aforesaid masonry-pillar.

(The portion of this embankment from mile, 43 feet 641 to mile 43 feet 1,649, 0 mile 1,008 feet in length was excluded by Notification No. 14-I., dated the 7th December, 1933, published in the "Calcutta Gazette" of 1933, Pt. I, page 1856).

(The portion of the forward line of this embankment commencing from 16 miles 3,460 feet and terminating at 17 miles 1,710 feet and occupying settlement plots Nos. 1, 2, 3, 4, 22 and 35 in village Mohisghatta and plot No. 2329 in village Uttarbar, within thana Daspur, in the District of Midnapnore, was excluded by notification No.29-I., dated the 19th July, 1939, published in the "Calcutta Gazette", 1939, Part I, page 1767).

No. 23.

Dushwaspur Circuit Embankment.

This is a circuit embankment, 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kánsái river, distant 704 feet and bearing 20° from the Dushwáspur sluice in the village of Dushwáspur of *pargana* Chetuyá, and passing along the right bank of the Kánsái river through the villages of Nabindáspur, Kunjapur, Maheshpur, Telándi and Brikshabánpur, thence passing along the left bank of the Petuyá *khal* through the villages of Fatehpur, Gadáipur and Dhánkholá, it terminates at another masonry-pillar in the village of Krittibáspur, *pargana* Chetuyá.

No. 24.

Narajol Embankment.

This is an embankment, 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Sámát, *pargana* Chetuyá, and passing along the left bank of the Kánsái river to the village of Madanmohanpur, and thence along the right bank of the Shilái river through the village of Rámadevpur, it terminates at another masonry-pillar in the village of Chandikháli, *pargana* Chetuyá.

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(The portion of this embankment from 3 miles 0 foot to 7 miles 1,735 feet was excluded from this schedule by Notification No. 43-I., dated the 25th November, 1929, published in the "Calcutta Gazette" of 1929, Pt. I, page 2111.)

(The portion of this embankment from 0 to 3 miles was excluded from this schedule by Notification No. 11-I., dated the 3rd March, 1931, published in the "Calcutta Gazette" of 1931, Pt. I, page 305.)

No. 25.

Brindavanchak Embankment.

This is an embankment, 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindāvanchak, *pargana* Khārijī Mandalghāt, and running along the right bank of the Durbāchati *khal*, terminates at another masonry-pillar in the same village.

No. 26.

Dhangadiya Embankment.

(Excluded by Notification, dated the 24th November, 1887, published in the "Calcutta Gazette," 1887, Pt. I, page 961.)

No. 27.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 7 miles 3,980 feet, more or less, in length. It comences at a masonry-pillar fixed in the ground in the village of Gaurbāzār or *pargana* Shergad, and terminates at a masonry-pillar at the junction of the Tumni *khal* with the Ajai river in the village of Kājādihi of *pargana* Shānpāhādi.

(The portion of this embankment from the sixth mile post up to its end near the Tumni *khal* was excluded from this schedule by Notification No. 4-I., dated the 14th May, 1928, published in the "Calcutta Gazette," 1928, Pt. I, page 1163.)

No. 28.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry-sluice near the junction of the Tumni and Bālpāhādi *khals* in the village of Vishnupur of *pargana* Shānpāhādi, and terminates at the masonry-pillar in the village of Arjunbani in the said *pargana*.

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No. 29.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sâtkoniyâ, *pargana* Shânpâhâdi, and terminates at a masonry-pillar in the village of Sagarposta of *pargana* Gopibhum.

No. 30.

Left Embankment on the Ajai River.

(Excluded by Notification No. 18-I., dated the 25th September, 1930, published in the "Calcutta Gazette" of 1930, Pt. I, page 1604.)

No. 31.

Right Embankment on the Damodar River.

(Excluded by Bengal Government's Order No. 674-I., dated the 17th April, 1891.)

No. 32.

Left Embankment on the Damodar River.

This is a continuous line of embankment on the left bank of the Damodar river, 107 miles more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shiliyâ *pargana* Châmpânagar, and terminates at a masonry-pillar in the village of Alipore of *pargana* Mandalghât.

The following Notifications have been published with respect to this Embankment—

Notification No. 17-I., dated the 22nd July, 1937, published in the "Calcutta Gazette" of 1937, Pt. I, page 1983.

Whereas on enquiry made by the Collector of Burdwan it has been found that it is unnecessary in the public interest to retain the portion of the forward line of the Damodar Left Embankment, Schedule "D", No. 32, more or less 3,520 feet in length, commencing from 40 feet beyond 7 mile post and terminating in 3,560 feet beyond 7 mile post in village Sonda, police-station Galsi, District Burdwan, in Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), the Governor is pleased, in exercise of the powers conferred by the first clause of section 43 of the Bengal Embankment Act, 1882 (Bengal Act II of 1882), to direct that the said portion of the embankment shall no longer be included in the said schedule.

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2. *The Bengal Government Notification No. 11-I, dated the 29th May, 1937, is hereby cancelled.*

Notification No. 20-I dated the 30th July, 1937, published in the "Calcutta Gazette" of 1937, Pt. I, page 2087.

Whereas on enquiry made by the Collector of Burdwan it has been found that in consequence of the construction of a retired embankment on the left of the river Damodar behind the forward embankment in village Serangpur it is unnecessary in the public interests to retain the portion of the Serangpur forward line of Embankment Schedule "D", No. 32 commencing from mile 35-4,490 feet and terminating at mile 37-1,640 feet occupying settlement plots Nos. 217, 1003, 1010 in village Serangpur, thana Jamalpur, in the district of Burdwan, in the Schedule D to the Bengal Embankment Act, 1873 (Bengal Act VI of 1873), the Governor is pleased, in exercise of the powers conferred by the first clause of section 43 of the Bengal Embankment Act, 1882 (Bengal Act II of 1882), to direct that the said portion of the embankment shall no longer be included in the said schedule.

No. 32A.

Left Bank of Damodar River.

This is a continuous embankment about 8 miles, more or less, in length. It commences at a masonry-pillar in the main embankment at its bifurcation therewith in the village of Chanchai, and forms nearly a chord line with the edge of the river Damodar, forming part of the Mymaree Road in the village of Kusbah, and terminates at a masonry-pillar in the village of Joyrampur, north-east of Kalnah, where it again joins the main line of embankment.

(No. 32A, was included in the schedule by Notification No. 315, dated the 16th August, 1875, published in the "Calcutta Gazette" of 1875, Pt. I, page 1073.)

No. 33.

Right Embankment on the Damodar River.

(Excluded by Bengal Government's Order No. 674-I., dated the 17th April, 1891.)

No. 34.

Right Embankment on the Damodar River.

(Excluded by Bengal Government's Order No. 674-I., dated the 7th April, 1891.)

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No. 35.

Right Embankment on the Damodar River.

Excluded by Bengal Government's Order No. 674-I., dated the 17th April, 1891.

No. 36.

Right Embankment on the Damodar River.

Excluded by Notification No. 7-I., dated the 11th February, 1937, published in the "Calcutta Gazette" of 1937, Part I, page 346.

No. 37.

Right Embankment on the Damodar River.

This is a continuous line of embankment on the right bank of the Damodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gáigháti *khal* with the Damodar river in the village of Gáigháti, *pargana* Arsá, and terminates at a masonry-pillar at the junction on the Rupnarain and Hooghly rivers at the thirty-second milepost on the Rupnarain left embankment in the village of Magrápáthar of *pargana* Mandalghát.

No. 38.

Left Embankment on the Rupnarain River.

This is a continuous line of embankment on the left bank of the river Rupnarain, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rupnarain river and the Bákshi *khal* in the village of Bákshi, *pargana* Mandalghát; and terminates at a masonry-pillar at the junction of Hooghly and Rupnarain rivers at the thirty-second milepost of the Rupnarain embankment in the village of Mágrápáthar, *pargana* Mandalghát.

No. 39.

This is a continuous line of embankment, 41 miles and 155 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Khodálgobrá, *pargana* Virakul, and, running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry-pillar on the Kánthi and Khejri Road on the right bank of Rasulpur river in the village of Shyámchak, *pargana* Kaodámál.

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No. 40.

This is a continuous line of embankment, 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the Kánthi and Khejri Road on the right bank of the Rasulpur river in the village of Shyámchak, *pargana* Káodámál, and running along the right bank of the Rasulpur river as far as the Kánthi and Tamluk Road; and thence along the right bank of the Shripái river, terminates at a masonry-pillar in the village of Atlágádi, *pargana* Májnámutá.

(The following portion of this embankment was excluded from this schedule by Notification No. 198, dated the 14th June, 1887, published in the "Calcutta Gazette" of 1887, Pt. I, page 527, namely :—

A portion, 23 miles and 4,066 feet in length, commencing from the pillar in the village of Atlagori and ending at a pillar on the right bank of the Rasulpur river in the village of Damdaparellia, pargana Bahirimutta.)

No. 41.

This is a circuit embankment on the right bank of the Rasulpur river, 2 miles 4,868 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Sánbediyá, *pargana* Báhirimutta.

No. 42.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Atlágádi, *pargana* Májnámutá, and running along the left bank of the Shripái river as far as the village of Keshurkundá on the Kánthi and Midnapur Road, and thence in a northerly direction to Chaumukh on the Bágdáhá river, and thence along the right bank of the Báliághái *khal* to the east of the Dhubdá *jhil*, terminates at a masonry-pillar on the sand-ridge in the village of Mádhavpur, *pargana* Bhográi.

(The following portions of this embankment were excluded from this schedule by Notification No. 198, dated the 14th June, 1887, published in the "Calcutta Gazette" of 1887, Pt. I, page 527, namely :—

A portion from Atlagori to Dakhin Chowmuk, 18 miles in length, and another portion from Balliaghye to Madhubpur, 11 miles in length.)

No. 43.

(Excluded by Notification No. 198, dated the 14th June, 1887, published in the "Calcutta Gazette" of 1887, Pt. I, page 527.)

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No. 44.

(Excluded by Notification No. 198, dated the 14th June, 1887, published in the "Calcutta Gazette" of 1887, Pt. I, page 527.)

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, *pargana* Sujámuta, and running along the left bank of the Ekhtiyárpur *khal* to its junction with the Madhukháli river, thence running along the left bank of the Madhukhali river to the Chauddachuli Inspection Bungalow at the confluence of the Rasulpur river and the Kánjápur or Talpati *khal*, thence running along the left bank of the Kunjapur or Talpati *khal* to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldi, thence following the right bank of this river as far as the junction of the Káliághái and Kánsái rivers, and lastly running along the right bank of the Káliághái river, terminates at a masonry-pillar at the village of Nilkanthapur, *pargana* Jalámutá.

No. 46.

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Káliághái river. It commences at a masonry-pillar built in the ground in the village of Kharán, *pargana* Patáspur and terminates at another masonry-pillar in the said village.

No. 47.

This is a circuit embankment, 34 miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the Bárju *ghat* in the village of Barju, *pargana* Nárnámutá, and running along the right bank of the Madhukháli river, the left bank of the Bágdaha river, and the right bank of the Chakbhaváni *khal*, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbadi, Dishimila, Khamgadá, Idálpur, Kalarathári, Nishchintar, Ullálbár, Kányábár, Bhástágadá, Khálá Kálkádári, Sundarpur, Mallikpur, Ballabpur, Suká-kholá, Udaypur, Gopalpur, Badaádápur, Tamalpur, Chákbatá, Kalsái, Kulbediyá, Chakmáthuri, Chakhábani, Bhairavádári, South Chánda, Mangalpur, Dakshindára, Pratápdighi, Bámánbasan, Sitádighi, Krishnanagar, Páneshwari, Sháradabar, Mahurá, Chakrashál, Khákudá, Mangalchak, Tonábila, Arjunagar, Puruliyá, Maheshdá, Khámgadá, Máldaha, Bárji, and *parganas* Nárnámutá, Kismat Patáspur, Kismat Dánta, Kharáig, Pratápián, Patáspur and Bhátgad.

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No. 48.

This is a circuit embankment, 11 miles 1,541 feet, more or less, in length, lying between the Madhukhali river and Udbadal *khal*. It commences at a masonry-pillar built in the ground, at the junction of the Madhukhali river and Udbadal *khal* in the village of Náturiyá *pargana* Nárnámutá and passing through the villages of Udbadal, Chámpáinagar, Kánáshdighi, Náthára, Khátmári, Itabediya, Náudighi, Mánikjod, Hánsghariyá, Mánikjod Básudevbediyá, Patarbediyá, *pargana* Nárnámuta terminates at the aforesaid pillar.

No. 49.

This is a circuit embankment, 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyárpur *khal*, Madhukhali river, and Udbadal *khal*. It commences at a masonry-pillar built in the ground at the junction of the Madhukhali river and Ekhtiyárpur *khal* in the village of Raghunáthchak, *pargana* Nárnámutá, and running along the left bank of the Madhukhali river, left bank of the Udbadal *khal* and right bank of the Ekhtiyárpur *khal*, terminates at the aforesaid pillar. It passes through the villages of Udbadal, Patna, Dumurdári, Padutárdi, South, Biyadá, Ichhápur, Pánchghariyá, Bhupatinagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jaganmohanpur, Chámpáinagar, Khánjádápur, Udbadal and the *parganas* of Nárnámutá and Káodámál.

No. 50.

This is a continuous line of embankment, 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, *pargana* Ságámutá, and running along the right bank of the Ekhtiyárpur *khal*, terminates at a pillar in the village of Rádhápur, *pargana* Erinchi.

No. 51.

This is a circuit embankment, 7 miles 2,735 feet, more or less, in length, between the Káliághái river and the Bágai *khal*. It commences at a masonry-pillar built in the ground at the junction of the Káliághái river with the Bágai *khal* in the village of Dáropátná, *pargana* Patáspur, and passing through the villages of Gokulpur, Gholáhát, Daropátna, *pargana* Patáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is a circuit embankment 20 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpati *khal* with the Rasulpur river in the village of Gumgad, *pargana* Kasbá Hijli and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Tálpati *khal* in the Bay of

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Bengal, and thence running along the south bank of the Tálpati *khal*, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Davichak, Danda-chak, Kátká, Shyámpur, Bághá, Padurbediyá, Nenapáta, Mohendranagar, Kálága-chiyá, Páñchabadi, Osilchak, Honábediya, Orakbediyá, Sálkondá, Sahebchiak, Bámanchak, Badabádi, Phulbádi and Mulichak, all in the *pargana* Kaská Hijli.

No. 53.

This is a continuous line of embankment, 60 miles 4,110 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Bárgodá, *pargana* Tamluk, and running along the left bank of the Kánsái and Haldi rivers to the confluence of the latter with the river Hooghly, and thence along the right bank of the Hooghly and Rupnarain rivers, terminates at a masonry-pillar in the village of Bánká, about one-fourth of a mile north of a Hindu temple on the left bank of the Bánká *khal*.

No. 54.

This is a circuit embankment, 12 miles 2,550 feet, more or less, in length, situated between the Káliághái and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Káliághái river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhádi, Lakshmanpur, Nárikeldhi, Shunábhay, Ashnan, Chanddabediya, Máchodal, Kholákhál, Kálkádadi, Páñchpukuriyá, Krishnachak and Sálgediyá, all in the *pargana* Tamluk.

No. 55.

Rampur-Boalia Old Embankment.

(Excluded by Notification, dated the 23rd February, 1885, published in the "Calcutta of Gazette" of 1885, Pt. I, page 139.)

¹No. 55.*Talaimari Embankment.*

This is a continuous line of embankment on the left bank of the river Ganges, 8,224 feet in length, more or less. It commences at a brick-pillar at the village of Sahibganj, *pargana* Gururhat, passes through villages Ghoramara and Ramchandrapur, and terminates at a brick-pillar fixed at the village of Talaimari, *pargana* Lashkarpur, where it joins with the Rajshahi and Pabna Road.

(This No. 55 was included in this schedule by Notification, dated the 23rd February, 1885, published in the "Calcutta Gazette" of 1885, Pt. I, page 139, as amended by Notification No. 797, dated the 12th February, 1895, published in the "Calcutta Gazette" of 1895, Pt. I, page 127.)

¹Embankments No. 55, 56A and 56B have fallen in East Pakistan.

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No. 56.

Rampur-Boalia Embankment.

(Excluded by Notification, dated the 23rd February, 1885, published in the "Calcutta Gazette" of 1885, Pt. I, p. 139.)

No. 56.

Boalia Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 14,180 feet in length, more or less. It commences by its junction with the *pucca* road at a brick-pillar in the ground at the village of Kassaipara, 1,170 feet, west of Bara Kutī, *pargana* Gururhat. It passes through villages Kassaipara, Khasmahal, Srirampur, Nababganj, Nabinagar, and Bulanpur, and terminates at a point where it joins with the Godagari road embankment in the village of Bulanpur, *pargana* Gururhat, its termination being marked by a brick-pillar in the ground at this point north-west of the Judge's Court-house.

(This No. 56 was included in this schedule by Notification, dated the 23rd February, 1885, published in the "Calcutta Gazette" of 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in the "Calcutta Gazette" of 1895, Pt. I, p. 127. Sluice No. 4 was excluded from this embankment by Notification No. 2-I, dated the 20th April, 1921, published in the "Calcutta Gazette" of 1921, Pt. I, p. 680.)

¹No. 56A.

Cutcherry Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 1,729 feet in length, more or less. It commences at a brick-pillar fixed in the ground on the south side of the Nator road at the village of Bulanpur, *pargana* Gururhat, and terminates at a point where it meets the Rampur-Boalia Embankment in the village of Bulanpur, *pargana* Gururhat.

(No. 56A was included in this schedule by Notification, dated the 23rd February, 1885, published in the "Calcutta Gazette" of 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in the "Calcutta Gazette" of 1895, Pt. I, p. 127.)

¹No. 56B.

Godagari Road Embankment.

This is a continuous line of embankment (which is also a district road) on the left bank of the river Ganges, 12,250 feet in length, more or less. It commences at

¹See foot-note 1 on page 212, ante.

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a brick-pillar fixed in the ground at the termination of Rampur-Boalia embankment, Schedule D, No. 56, north-west of Judge's Court-house, in the village of Bulanpur, *pargana* Gururhat, passes through villages Khasmahal, Chalnai, Haropur, Gobindapur and Nabaganga, and terminates at a brick-pillar fixed in the ground in the village of Sonaikandi, *pargana* Gururhat.

(No. 56B was included in this schedule by Notification, dated the 23rd February, 1885, published in the "Calcutta Gazette" of 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in the "Calcutta Gazette" of 1895, Pt. I, p. 127.)

No. 57.

Malda Embankment.

This is a continuous line of embankment on the right bank of the Mahánadi river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, *pargana* Amirábád, and terminates at a masonry-pillar in the village of Mahespur, *pargana* Bhátiyá.

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No. 58.

Left Embankment on the river Hooghly.

This is a continuous embankment on the left bank of the river Hooghly, 5 miles 4,500 feet, more or less, in length. It commences at Manikháli *khal*, at a masonry-pillar fixed in the ground in the village of Jagannathnagar, and terminates at a masonry-pillar in the village of Mijghar, on the north side of Chadiyal *khal* near the junction of the Hoghly river and Chadiyal *khal*.

No. 59.

Right Bank of Chadiyal Khal.

This is a continuous embankment on the right bank of Chadiyal *khal*, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Mijghar, on the north side of Chadiyal *khal* near the junction of Hooghly river and Chadiyal *khal*, and terminates at a masonry-pillar in the village of Gharbanmoniyá, on the north bank of Chadiyal *khal* near the junction of Chadiyal *khal* and the Calcutta and Achipore Road.

(A portion of this embankment, measuring 1,150 feet, commencing from village Banjhanpara and terminating in village Chadiyal at the masonry-pillar on the side of the Calcutta and Achipore Road, was relinquished under order by the Government of Bengal, Revenue Department, No. 2014, dated the 23rd May, 1892.)

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No. 59A.

Right Bank of Chadiyal Khal.

This is a line of embankment 1,290 feet, more or less, in length, constructed in 1891 on the right bank of the Chadiyal drainage outfall channel. It commences from the end of the old Chadiyal *khal* right embankment, abandoned in 1892, in the village of Banjhanpara, *pargana* Ballea, district 24-Parganas, and running along the right bank of the new Chadiyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the river Hooghly at its sixth mile in the village of Joychandipore, *pargana* Ballea, district 24-Parganas.

(No. 59A was included in this schedule by Notification No. 177, dated the 20th May, 1895, published in the "Calcutta Gazette", 1895, Pt. I, page 503. The Notification declared that this embankment should remain in the schedule only so long as the Chadiyal *khal* drainage works are maintained. Those works are still maintained.)

No. 60.

Left Bank of Chariyal Khal.

(A portion of this embankment measuring 1,290 feet, commencing from the masonry-pillar on the side of the Calcutta and Achipore Road, in village of Joychandipur, and terminating on the side of Chariyal *khal* in the same village, was relinquished under order by the Government of Bengal, Revenue Department, No. 2014, dated the 23rd May, 1892. The rest of the embankment, measuring 1,990 feet, was excluded from this schedule by Notification No. 176, dated the 20th May, 1895, published in the Calcutta Gazette, 1895, Pt. I. p. 503).

No. 60.

Left Bank of Chariyal Khal.

This is a line of embankment 1,100 feet, more or less, in length, constructed in 1891 on the left bank of the Chariyal drainage outfall channel. It commences from the end of the old Chariyal *khal* left embankment, abandoned in 1892, in the village of Joychandipur, *pargana* Ballea, district 24-Parganas, and running along the left bank of the new Chariyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the Hooghly river at its seventh mile and the abovementioned village of Joychandipur.

(This No. 60 was included in this schedule by Notification No. 177, dated the 20th May, 1895, published in the Calcutta Gazette, 1895, Pt. I, p. 503. The Notification declared that this embankment should remain in the schedule only so long as the Chariya *khal* drainage works are maintained. Those works are still maintained.)

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No. 61.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of Hooghly river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Joychandipur, near the junction of river Hooghly and Chariyal *khal*, and continues along the left bank of Hooghly river to Pujali *khal*, on both sides of Pujali *khal*, between the river Hooghly and the road leading from Calcutta to Achipur, and again down the left bank of the river Hooghly to the right bank of Faltá *khal*, and terminates at a masonry-pillar in the village of Faltá near the junction of river Hooghly and Faltá *khal*.

No. 62.

Right Bank of Faltá Khal.

This is a continuous embankment on the right bank of Faltá *khal*, 2 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Faltá, on the north side of the *khal*, near the junction of river Hooghly and Faltá *khal*, and terminates at a masonry-pillar on the right bank of Faltá *khal* in the village of Sohárá.

No. 63.

Left Bank of Faltá Khal.

This is a continuous embankment on the left bank of Faltá *khal*, 2 miles 1,360 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Faltá *khal*, in the village of Bāsudiápur, and terminates at a masonry-pillar on the left bank of the *khal* in the village of Táráganj near the junction of river Hooghly and Faltá *khal*.

No. 64.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of river Hooghly, 11 miles 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Táráganj, near the junction of river Hooghly and Faltá *khal*, and terminates at a masonry-pillar in the village of Shimulganja, on the right-bank of Kholákháli *khal*, near its junction with Hooghly river.

of 1873.]

(Schedule D.)

No. 65.

Right Bank of Kholakhali Khal.

This is a continuous embankment on the right bank of Kholákháli *khal*, 3,500 feet, more or less, in length. It commences at a masonry-pillar in the village of Shimulganja on the right bank of Kholákháli *khal*, near its junction with Hooghly river, and terminates at a masonry-pillar on the right bank of the *khal* in the village of Darigovindapur.

No. 66.

Left Bank of Kholakhali Khal.

This is a continuous embankment on the left bank of Kholákháli *khal*, 4,800 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kholákháli *khal* in the village of Jangalpadá, and terminates at a masonry-pillar on the left bank of the *khal* in the village of Rámchandranagar, near the junction of the Hooghly river and Kholákháli *khal*.

No. 67.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of river Hooghly, 3 miles 2,260 feet, more or less, in length. It commences at a masonry-pillar in the village of Rámchandrapur, near the junction of Hooghly river and Kholákháli *khal*, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hájipur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 68.

This is a continuous embankment on the right bank of the Diamond Harbour Creek, 7 miles 3,100 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hájipur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Diyárná.

(The portion of this embankment, 6 miles 4,242 feet more or less, in length, on the right bank of the Diamond Harbour Creek, commencing from the northern boundary line of cadastral survey plot No. 728 in mauza Bhagabanpur and terminating at the south-west corner of the cadastral survey plot No. 910 in mauza Dakhin-Dearak in the district of 24-Parganas, was excluded by notification No. 10-I., dated the 24th June, 1940, published in the *Calcutta Gazette*, 1940, Part I, page 1903.)

(Schedule D.)

No. 69.

Left Bank of Diamond Harbour Creek.

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Diyárná and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek.

(The portion of this embankment, 5 miles 4,310 feet, more or less, in length, on the left bank of the Diamond Harbour Creek, commencing from the south-west corner of cadastral survey plot No. 94 of Mauza Roynagar, and terminating at the south-east corner of cadastral survey plot No. 1188 in mauza Dakhin-Dearak in the district of 24-Parganas, was excluded by notification No. 11-I., dated the 24th June, 1940, published in the *Calcutta Gazette*, 1940, Part I, page 1903.)

No. 70.

Left Bank of the Hooghly River.

This is a continuous embankment on the left bank of the river Hooghly, 8 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kulpi Nadi, in the village of Mashámári, near the junction of Hooghly river and Kulpi Nadi.

No. 71.

Right Bank of Kulpi Nadi.

This is a continuous embankment on the right bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the right bank of Kulpi Nadi in the village of Mashámári, and terminates at a masonry-pillar on the right bank of Kulpi Nadi in the village of Jánakimári.

No. 72.

Left Bank of Kulpi Nadi.

This is a continuous embankment on the left bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Gauripur, and terminates at a masonry-pillar on the left bank of Kulpi Nadi in the village of Durgánagar, near the junction of Hooghly river and Kulpi Nadi.

of 1873.]

(Schedule D.)

No. 73.

Left Bank of River Hooghly.

This is a continuous embankment on the left bank of Hooghly river, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi, in the village of Durganagar, near the junction of Hooghly river and Kulpi Nadi, and terminates at a masonry-pillar in the village of Chalámuri near Chalámuri Semaphore.

No. 74.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Chalámuri, near Chalámuri Semaphore, and terminates at a masonry-pillar near the right bank of the Shrirámpur *Khal* in the village of Vaidyanáthpur.

No. 75.

Right Bank of Shrirampur Khal.

This is a continuous embankment on the right bank of the Shrirámpur *khal*, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Shrirámpur *khal*, in the village of Vaidyanáthpur, and terminates at a masonry-pillar in the village of Kontáheniyá.

(The following portion of Embankment No. 75 was excluded from this schedule by Notification No. 23, dated the 19th September, 1905, published in the "Calcutta Gazette", 1905, Pt. I, p. 1623, namely :—

A Portion of this embankment, 3 miles 870, feet, more or less, in length, commencing at a masonry-pillar on the right bank of the Shrirampur khal in the village of Chuttrachuck, at the place where an embankment has been constructed across the Srirampur khal, and terminating in the village of Kontaheniya.

No. 76.

Left Bank of Srirampur Khal.

This is a continuous embankment on the left bank of Srirámpur *khal*, 9 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Kontaheniya, and terminates at a masonry-pillar on the left bank of the Srirampur *khal* in the village of Tákitpur Dighi.

(Schedule D.)

(The following portion of Embankment No. 76, was excluded from this schedule by Notification No. 23, dated the 19th September, 1905, published in the "Calcutta Gazette", 1905, Pt. I, p. 1623, namely :—

A portion of this embankment, 4 miles 570 feet, more or less, in length, commencing at a masonry-pillar in the village of Kontaheniya and terminating in the village of Chuttrachak at the place where an embankment has been constructed across the Srirampur khal.)

No. 76A.

This is a continuous embankment across the Srirampur khal 500 feet, more or less, in length. It commences at a masonry-pillar in the village of Chuttrachuck and terminates in the same village at a distance of 500 feet from that pillar.

(No. 76A was included in this schedule by Notification No. 13, dated the 16th May, 1905, published in the "Calcutta Gazette", 1905, Pt. I, p. 1891.)

No. 77.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Srirampur khal in the village of Tákitpur Dighi, and terminates at a masonry-pillar on the right bank of Khádi khal in the village of Gulárchánt.

No. 78.

Right Bank of Khadi Khal.

This is a continuous embankment on the right bank of Khádi khal, 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Khádi khal in the village of Gulárchánt, and terminates at a masonry-pillar in the village of Meghibed, near a drainage sluice.

No. 79.

Left Bank of Khadi Khal.

This is a continuous embankment on the left bank of Khádi khal, 3 miles 2,040 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghibed, and terminates at a masonry-pillar on the left bank of the khal in the village of Kámárhátá.

of 1873.]

(Schedule D.)

No. 80.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 19 miles, more or less, in length. It commences from a masonry-pillar on the left bank of the Khádi *khal*, in the village Kámárhátá, and terminates at a masonry-pillar on the right bank of Piyáli river in the village of Talpi.

No. 81.

Right Bank of Piyali River.

This is a continuous embankment on the right bank of Piyáli river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river in the village of Talpi, and terminates at a masonry-pillar on the right bank of the Piyáli river in the village of Chordákáiti.

No. 82.

Right Bank of Surjyapur Khal.

This is a continuous embankment on the right bank of Surjyapur, of Paschanbáhan *khal*, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river, in the village of Chordákáiti, and terminates at Pashchanbáhan sluice in the village of Bulbuliyá.

(The following portion of this embankment was excluded from this schedule by Notification No. I, dated the 13th February, 1917, published in the "Calcutta Gazette", 1917, Pt. I, p. 247, namely :—

A portion of this embankment, 5 miles 1,000 feet, more or less, in length, commencing at the village of Mowtolla and ending at the Kumrakhali sluice in the village of Kumrakhali.

No. 83.

Left Bank of the Surjyapur Khal.

This is a continuous embankment on the left bank of Surjyapur or Pashchanbáhan *khal*, 4 miles 2,640 feet, more or less, in length. It commences at a Pashchanbáhan sluice in the village of Bulbuliyá and terminates at a masonry-pillar on the left bank of Surjyapur *khal*, in the village of Rámnagar.

(The following portion of this embankment was excluded from this schedule by Notification No. I, dated the 13th February, 1917, published in the "Calcutta Gazette", 1917, Pt. I, p. 247, namely :—

A portion of this embankment, 3 miles 4,220 feet, more or less, in length, commencing at the village of Nachangacha and ending at the masonry-pillars in village Madanpore (Ramnagar).)

(Schedule D.)

No. 84.

Right Bank of the Piyali River.

This is a continuous embankment on the left side of Piyáli river, 9 miles 2,100 feet, more or less. It commences at a masonry-pillar on the left bank of Surjyapur *khal* in the village of Rámnagar, and terminates at a masonry-pillar on the right bank of Vidyádhari river, in the village of Sángar, near the junction of Vidyádhari and Piyáli rivers.

[The following portion of this embankment was excluded from this schedule by Notification No. I, dated the 13th February, 1917, published in the "Calcutta Gazette", 1917, Pt. I, p. 247, namely :—

A portion of this embankment, 1 mile 680 feet, more or less, in length, commencing at the masonry-pillar in the village of Madanpur (Ramnagar) and ending in the village of Uttarbhag at the road of Canning.]

No. 85.

Left Bank of Piyali River.

This is a continuous embankment on the left bank of Piyáli river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyáli river in Sundarban Lot No. 45, and terminates in a masonry-pillar on the right bank of the Bághmári *khal* in the village of Jalyerát, near the junction of Piyáli river with Bághmári *khal*

No. 86.

Left Bank of Baghmari Khal.

This is a continuous embankment on the left bank of the Bághmári *khal*, 2 miles 2,640 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerát, near the junction of Piyáli river and Bághmári *khal*, and terminates at a masonry-pillar at the side of Mátlá road in the village of At Rámdhar.

No. 87.

Right Bank of Baghmari Khal.

This is a continuous embankment on the right side of Bághmári *khal*, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar at the side of Mátlá road in the village of Kulari, and terminates at a masonry-pillar on the left bank of Piyáli river in the village of Kist Káláváruyi,

of 1873.]

(Schedule D.)

No. 88.

Left Bank of Piyali River.

This is a continuous embankment on the left bank of the Piyáli river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálábáryui, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

(The following portion of embankment No. 88 was excluded from this schedule by Notification No. 13,¹ dated the 21st December, 1907,—published in the "Calcutta Gazette", 1907, Pt. I, page 2307, namely :—

A portion of this embankment, 3 miles 3,418 feet more or less, in length, commencing in a village of Goredaha, 100 feet north of the Eastern Bengal State Railway ²line, where the embankment crosses it and ending at the village of Kalaboro, 2,370 feet south of the Canning Road.)

No. 89.

Left Bank of Piyali River.

This is a continuous embankment on the left bank of Piyáli river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Shrikrishnapur, and terminates at a masonry-pillar on the right bank of Vidyádhari river near the junction of Vidyádhari and Piyáli rivers.

No. 90.

Right Bank of Vidyadhari River.

This is a continuous embankment on the right bank of Vidyádhari river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river in the village of Báliyápur, and terminates in a masonry-pillar on the right bank of the same river, near the junction of Vidyádhari and Piyáli rivers.

No. 91.

Right Bank of Vidyadhari.

This is a continuous embankment on the right bank of Vidyadhari river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyadhari and Piyali rivers in the village of Sangar, and terminates at a masonry-pillar on the right bank of Vidyadhari river near its junction with Tolly's Canal in the village of Pratapnagar.

¹This number was altered from "B" to "13" by notification, dated the 6th January, 1908, published in the *Calcutta Gazette* of 1908, Pt. I, page 41.

²Now known as Eastern Railway.

(Schedule D.)

No. 92.

South side of Tolly's Canal.

This is a continuous embankment on the south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyadhari river, near the junction of Vidyadhari river and Tolly's Canal in the village of Pratapnagar, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmabad.

No. 92A.

Tolly's Nalla (Tacavi) Embankment.

This is an embankment, 1 mile 5,170 feet long, lying on the south bank of the nalla commencing from the Garia Railway Station in the Eastern Bengal Railway¹, Southern section, and joining with the schedule D Embankment in charge of the Irrigation Department lower down.

(No. 92A was included in this schedule by Notification No. 16-I., dated the 19th November, 1932, published in the "Calcutta Gazette", 1932, Pt. I, page 1922).

No. 93.

North side of Tolly's Canal.

(Excluded by Notification No. 6-I., dated the 27th February 1936, published in the "Calcutta Gazette", 1936, Pt. I, page 489.)

No. 94.

Bhagirathi Embankment.

This is a line of disconnected embankment on the left of the Bhagirathi river, extending from Bhagwangola, *pargana* Islampur, district Murshidabad, to Plassey *pargana* Plassey, district Nadia, a distance of about 58 miles 740 feet.

(The portion of this embankment, 3,173 feet, more or less in length, on the left bank of the Bhagirathi river, lying between 48 miles 1,278 feet and 48 miles 4,451 feet in mauzas Debipur and Sadekbagh in the district of Murshidabad, was excluded by notification No. 15-I., dated the 13th June, 1941, published in the *Calcutta Gazette*, 1941, Part I, page 1483.)

¹Now known as Eastern Railway.

of 1873.]

(Schedule D.)

No. 94A.

Mowla cross-bund.

This is a small cross-bund joining embankment No. 94 (Bhagirathi embankment) with the new Mowla retired line as a protection to the Rajapur village on the left bank of the Bhagirathi river, *pargana* Kulberia, district Murshidabad, a distance of about 507 feet.

No. 94B.

Ganges Embankment.

(Excluded by Notification No.7-I, dated the 3rd March 1930, published in the "Calcutta Gazette", 1936, Pt. I, p. 521.)

No. 94C.

Ganges Bhagirathi Embankment.

This is a line of continuous embankment on the right bank of the river Ganges and left bank of the Bhagirathi river, extending from Bhagwangola, *pargana* Islampur, district Murshidabad, to Kulgachi, *pargana* Dehat Akharshahi, district Murshidabad, a distance of about 15 miles 3,505 feet.

(Nos. 94B and 94C were included in this schedule by Notification No. 9, dated the 13th July, 1909, published in the "Calcutta Gazette", 1909, Pt. I, p. 970. The portion of this embankment from the 70th mile to 84th mile 2,545 feet was excluded from this schedule by Notification No. 7-I, dated the 3rd March 1936, published in the "Calcutta Gazette", 1936, Pt. I, p. 521.)

No. 95.

Kachikata Embankment.

(Excluded by Notification No. 3-I., dated the 30th April 1930, published in the "Calcutta Gazette", 1930, Pt. I, p. 738.)

No. 96.

Panchanogram Embankment.

This is a continuous embankment, 3 miles and 1,400 feet, more or less, in length in the Government estate, Panchanogram. It commences in villages Kalikapore, and terminates in villages Shaumbadut and Chowbhanga. of *pargana* Calcutta, Dehi Panchanogram.

(Schedule D.)

(This embankment was included in this schedule by Notification No. 160, dated the 8th April, 1884, published in the "Calcutta Gazette", 1884, Pt. I, p. 516. That Notification declared that the embankment should remain in the schedule as long as the Government is the proprietor of the Panchanogram estate. The number "96" was given by Notification No. 275, dated the 20th July, 1886 published in the "Calcutta Gazette", 1886, Pt. I, p. 865.)

No. 97.

Connecting Embankment.

This is a continuous line of embankment on the right bank of the Cossye river 3 miles 986 feet, more or less, in length. It commences at the Mohanpore Lock of the Midnapore Canal in the village of Sopeabad of *pargana* Khurruckpore, and terminates at a masonry-pillar in the village of Inda in the said *pargana*.

(No. 97 was included in this schedule by Notification No. 276, dated the 20th July, 1886, published in the "Calcutta Gazette", 1886, pt. I, p. 865.

No. 98.

Khurruckpore Embankment.

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Chorapal of *pargana* Khurruckpore, and terminates at a masonry-pillar in the village of Inda in the said *pargana*.

(No. 98 was included in this schedule by Notification No. 276, dated the 20th July, 1886, published in the "Calcutta Gazette", 1886, Pt. I, p. 865. The following portion of this embankment was excluded from this schedule by Notification No. 14-I, dated the 23rd April, 1931, published in the "Calcutta Gazette", 1931, Pt. I, p. 514, namely :—

- (a) 165 feet from the commencement of the embankment in village Chorapal on the Cossye River.
- (b) 2 miles 3,910 feet from beyond 565 feet from the commencement to the end of the embankment.)

No. 99.

Flank Embankment.

This is a continuous line of embankment on the left bank of the Cossye river, 4,000 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground near the Midnapore Workshops in the village of Nankar Bullubpore of *pargana* Midnapore, terminates at the north abutment of the Midnapore weir in the village of Srirampore in the said *pargana*.

of 1873.]

(Schedule D.)

(No. 99 was included in this schedule by Notification No. 276, dated the 20th July, 1886, published in the "Calcutta Gazette", 1886, Pt. I, p. 865.)

No. 100.

Chowmuk Embankment.

(This embankment was included in the schedule by Notification No. 29, dated the 24th January, 1888, published in the "Calcutta Gazette", 1888, Pt. I, p. 63, and excluded again by Notification No. 219, dated the 25th June, 1894, published in the "Calcutta Gazette", 1894, Pt. I, p. 717.)

No. 100A.

Chowmuk Embankment.

This is a continuous line of flood embankment, 6 miles, more or less, in length, and forms the right bank of the Balliaghya Drain, and takes the place of the left embankment, Chowmuk No. 100, to be now abandoned as superfluous. It commences from the Surpai Drainage sluice in the village of Surpai, *pargana* Narooamotta, and runs up to village of Chowmuk, *pargana* Paharpur.

(No. 100A was included in this schedule by Notification No. 220, dated the 25th June, 1894, published in the "Calcutta Gazette", 1894, Pt. I, p. 718. The Notification declared that this embankment should remain in the schedule only so long as the Government is the proprietor of the estates to which it affords protection.)

Boycaree Boar Water-course.

Whereas it appears to *His Honour the Lieutenant-Governor of Bengal* that the water-course, known as Boycaree Boar, from the Koyjoori Regulator, in the village of Koyjoori in the district of 24-Parganas, passing through the villages of Kalinee and Boycaree, in the district of Khulna, joins Darbhanga *Bheel* channel at about 3,500 feet below Bagdipara, in the district of Khulna, and drains Bullee *bheel* and the adjacent country ; it is proclaimed for general information that this water-course, 2 miles and 940 feet in length, is declared a public water-course, and will be included in Schedule D under the provisions of sections 7 and 43 of Act II (B.C.) of 1882.

(This water-course was included in this schedule by Notification No. 178, dated the 20th May, 1895, published in the "Calcutta Gazette", 1895, Pt. I, p. 504.)

[Ben. Act VI of 1873.]

*(Schedule D.)**Northern Drainage Cut Water-course.*

Whereas it appears to *His Honour the Lieutenant-Governor of Bengal*, that the water-course, commonly known as the Northern Drainage cut, on the left bank of the river Bhagirathi from Bistupur *Bhil* to Gobra *Nala*, in the district of Murshidabad, has been taken over from the Murshidabad District Board in connection with the Bistupur Drainage Project, it is notified for general information that this water-course, five miles in length, is declared a public water-course, and will be included in Schedule D of Act VI (B.C.) of 1873 under the provisions of sections 7 and 43 of Act II (B.C.) of 1882.

(This water-course included in this schedule by Notification No. 12 dated, the 21st March, 1910, published in the "Calcutta Gazette" of 1910, Pt. I, page 414.)

SCHEDULE E.

(Referred to in sections 36 and 44.)¹

<i>Pargana.</i>			District.			Amount of contribu- tion.		
						Rs.	a.	p.
Fatehsinha	...	...	Murshidabad	...	...	1,706	10	8
Rokanpur	...	...	Ditto	...	...	1,466	2	0

¹Sections 36 and 44 of this Act were repealed by the Bengal Embankment Act, 1882 (Ben. Act II of 1882), sec. 2. But sections 44 and 54 of the latter Act contain provisions as to this schedule.

Bengal Act V of 1875
(THE BENGAL SURVEY ACT, 1875.)

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37. Apportionment between tenure-holder and holder of subordinate tenure.
38. Recovery of sums payable to *samindar* or tenure-holder.
39. Recovery of sums expended by Government.

PART V.

BOUNDARY DISPUTES.

40. Procedure in case of disputes as to boundary.
41. Mode of determining boundary.
Force of Collector's order.
42. Power of Collector to take possession of land in dispute.
43. Power to refer to arbitration.
44. Relaying boundary previously determined by Court or by revenue-survey.
Collector may deviate from boundary if parties agree.
45. Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by survey.
46. In certain cases Collector may cause marks to be erected.

PART VI.

MISCELLANEOUS.

47. Joint *samindars* subject to every liability imposed on single *samindars*.
48. Service of notice.
49. No Proceedings under Act affected by mistake or misdescription.
50. Power of Collector to enforce attendance of witnesses.
51. Daily fine for failure to comply with requisition in notice.
52. Penalty for not giving notice of injury to boundary-mark.

of 1875.]

SECTION.

- 53. Penalty for removing boundary-marks.
- 54. Collector may award portion of fine to informer.
- 55. Levy of fine.
- 56. When person removing boundary-mark cannot be found, Collector may repair.
- 57. Every amount due deemed a demand.
- 58. Appeal against orders.
 - Supervision of proceedings.
 - Government may restrict functions of Commissioner.
- 59. Appeal against certain orders of Assistant Superintendent or Deputy Collector.
- 60. Appeal against certain orders of Collector or Superintendent of Survey.
- 61. Orders as to costs on appeal.
- 62. No suit to be brought unless appeal first preferred.
- 63. Power of State Government to make rules.

Bengal Act V of 1875

(The Bengal Survey Act 1875.)¹

AMENDED	...	...	<div style="display: inline-block; vertical-align: middle;"> <div style="display: inline-block; vertical-align: middle;">{</div> <div style="display: inline-block; vertical-align: middle;"> Act I of 1903. Ben. Act V of 1915. Ben. Act I of 1939. </div> </div>
			(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
ADAPTED		...	<div style="display: inline-block; vertical-align: middle;"> <div style="display: inline-block; vertical-align: middle;">{</div> <div style="display: inline-block; vertical-align: middle;"> (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950. </div> </div>

(6th October, 1875.)

Act to provide for the survey and demarcation of land.

WHEREAS it is expedient, with a view to the definition and identification of lands, the better security of landed property and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries; It is hereby enacted as follows :—

Preamble

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Survey Act, 1875.

Short title.

[Commencement].—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (1 of 1903).

It extends to the ²[the States of West Bengal and Bihar and that part of the State of Orissa which on the sixth day of October, 1875, was subject to the Lieutenant-Governor of Bengal].

Local extent.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the "Calcutta Gazette" of 1875, Pt. IV, page 41; for Report of Select Committee, see *ibid*, page 305; for further Report of Select Committee, see *ibid*, page 461; and for the Proceedings in Council, see *ibid*, 1875, Supplement, pages 14, 350, 929, and 987.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see sec. 1; but there is now a separate Act for Calcutta, which is also applicable to Municipalities—see the Calcutta Survey Act, 1887 (Ben. Act I of 1887).

²The words "the Provinces of West Bengal and Bihar and that part of the Province of Orissa which on the sixth day of October 1875 was subject to the Lieutenant Governor of Bengal" were first substituted for the words "territories subject to the Lieutenant-Governor of Bengal" by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter the words "States" and "State" were substituted for the words "Provinces" and "Province", respectively, by para 4 (1) of the Adaptation of Laws Order, 1950.

(Part I.—Preliminary.—Section 2.)

Interpre-
tation
clause.

2. In this Act, unless there be something repugnant in the subject or context,—

“Collector.”

“Collector” means every Collector of a district, and includes every officer either generally or specially vested with the powers of a Collector for the purposes of this Act :

“Deputy Collector.”

“Deputy Collector” includes any Deputy Collector to whom the Collector or Superintendent of Survey may delegate any of his functions under this Act :

“Estate.”

“estate” means—

any land which is entered on the revenue-roll as separately assessed with the public revenue ;

any land acquired from the ¹[Government] under one title, which is liable to pay land-revenue at any future time ;
any *char* or island thrown up in a navigable river or in the sea which under the laws in force is at the disposal of the ¹[Government] ;

any land which is entered on the Collector’s registers as a separate holding, free in perpetuity from liability to pay land-revenue ;

any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which under the laws in force, is considered an increment to the tenure to which such land has accreted, shall be deemed a part of such estate :

“*Mauza*.”

“*mauza*” includes every village, hamlet, *tola* and similar sub-division of an estate, *pargana* or village by whatever name such sub-division may be known :

“Occupant.”

“occupant” includes every *zamindar*, tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every *raiyat* in occupation of land :

“Section.”

“section” means a section of this Act :

“Survey.”

“survey” includes identification of boundaries, and all other operations antecedent to and connected with survey :

“Tenure.”

“tenure” includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of *raiyats* having a right of occupancy only ; it also includes all *ghatwali* holdings :

“Tenure-holder.”

“tenure-holder” means all or any of the holders of a tenure :

“*Zamindar*.”

“*zamindar*” means all or any of the holders of an estate.

¹The word “Crown” was first substituted for the word “Government” by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word “Government” was substituted for the word “Crown” by para. 4 (1) of the Adaptation of Laws Order, 1950.

of 1875.]

(Part II.—Of the Survey.—Sections 3—5.)

PART II.

OF THE SURVEY.

3. The ¹[State Government] may, whenever ²[it] shall think fit, order that a survey shall be made of the land situated in any district or in any part of a district or in any specified tract of country, and that the boundaries of estates, tenures, *mauzas* or fields be demarcated on the lands so to be surveyed :

State Government may order survey.

Provided that, in any district of which any survey may have been completed and approved by ³[the State Government], it shall not be lawful for the ¹[State Government] to order a new survey of lands on the banks of rivers or on the sea-shore to be made for the purposes described in ⁴[the Bengal Alluvion and Diluvion Act, 1847,] until ten years shall have expired from the completion and approval of any such previous survey.

IX of
1847.

4. For the purpose of carrying out any survey directed to be made under the last preceding section, or for any or all of the purposes of this Act,

State Government may appoint Superintendent of Survey.

the ¹[State Government] may appoint a Superintendent of Survey, who may exercise all or any of the powers of a Collector under this Act ;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey, and not otherwise :

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, it shall be competent to the Board of Revenue to direct that the Collector shall perform any duties under the Act within the said tract.

5. Before entering on any lands for the purpose of a survey the Collector shall cause to be published a proclamation addressed to the occupants of the lands which are about to be surveyed and of the conterminous lands, and to all persons employed on or connected with the management of, or otherwise interested in, such

Collector to publish proclamation before entering on lands.

¹The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para 4 (1) of the Adaptation of Laws Order, 1950.

²This word was substituted for the word "he" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "the Provincial Government" were first substituted for the words "the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴Substituted for "Act IX of 1847 (an Act regarding the assessment of land gained from the sea or from rivers by alluvion or dereliction with the Provinces of Bengal, Bihar and Orissa)," by section 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

[Ben. Act V

(Part 11.—Of the Survey.—Sections 6—9.)

lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorized by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary-marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

Such proclamation shall be published by posting a copy thereof—

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated ;

at every subdivisional office, police-station, *Munsif's* Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated ;

at one or more *mal-cutcheries* on each estate ;

and at such other place or places as to the Collector may seem fit.

Collector
may enter
upon land.

6. After issue of a proclamation as aforesaid, the Collector and any person acting under his authority may enter upon such lands, and do all things and make all inquiries necessary for effecting the survey and demarcation of the boundaries thereof.

Collector
may serve
special
notice.

7. The Collector may also, by a special notice, require any such person to attend before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid ; and every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

Collector
to pay
price of
materials
or labour
supplied.

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

Collector
may
require
occupants
to clear
boundary-
lines.

9. The Collector or other survey-officer authorized by the Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

of 1875.]

(Part II.—Of the Survey.—Sections 10—12.)

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, together with payment for all expenses incurred in carrying out the said requisition.

Compensation.

11. When the demarcation of a village or other convenient tract has been completed, the *amin* or other survey-officer shall, before sending in to the Collector the maps and papers relating thereto,

Amin or survey-officer to call upon persons to sign maps or papers.

by a general notice, in which the names of all persons required to appear shall be specified and which shall be posted up at a convenient place in the village or tract,

call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting the maps, field books and similar papers in which any boundary pointed out by any such person has been represented, and, by signing such maps and papers, to certify that the boundaries have been laid down in accordance with the boundaries pointed out by them ;

and every person so called upon shall be legally bound to attend before such *amin* or survey-officer, and to inspect the papers, in accordance with such requisition.

Any person so called upon who may object to sign the maps and papers as aforesaid shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and papers.

Statement of objections.

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented or any of them have been represented in accordance with those pointed out by the person signing ; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section.

Effect of signature.

12. On receipt in the Collector's office of the maps or papers showing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection ; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purpose of the survey.

On receipt of maps, Collector to post notification in office.

[Ben. Act V]

(Part II.—Of the Survey.—Section 13.)

Collector
when to
issue
special
notice.

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the survey-officer to do so under the last preceding section, or for any other reason) that any *zamindar* or person interested is likely to object to any boundary as laid down or as represented in the said papers,

the Collector shall ¹[issue] a special notice, requiring such *zamindar* or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such *zamindar* or other person is interested, or of stating in writing the substance of any objection which he may wish to prefer against the correctness of such maps or papers ;

and, if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act :

If agent
deposits
expenses
of making
copies,
Collector
to order
them to
be
prepared.

Provided that, if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and as soon as they are prepared shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

Procedure
when
objection
is stated.

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit ; and, if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection.

Person
making
subsequent
objection
may be
required to
deposit
costs of
further
inquiry.

13. Whenever any person, having failed to sign the maps and papers, or to give in his objection in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued.

¹This word was substituted for the word "cause" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1875.]

(Part II.—Of the Survey.—Part III.—Of Boundary-marks.—
Sections 14, 15.)

the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection ;

and, if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers.

If the costs of any inquiry which may be deemed necessary be deposited, the Collector shall make such further inquiry at the expense of the person so objecting ; and, if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other persons on account of such inquiry :

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection.

PART III.

OF BOUNDARY-MARKS.

14. The Collector may cause to be erected temporary boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under this Act ;

Collector
may erect
tem-
porary
Boundary-
marks.

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey-operation shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-mark may be erected in lieu thereof as hereinafter provided.

15. The Collector may at any time cause to be erected on any land which is to be, or which has been, surveyed under this Act, permanent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, *mauzas* or fields for which the same are to be erected :

Collector
may erect
perma-
nent
boundary-
marks.

Provided that, seven days before he proceeds to the erection of any permanent boundary-marks, the Collector shall, for the information of all concerned, cause to be posted in his office, and in the *mal-cutcherry* or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

Specifica-
tion of
marks and
estimate
of cost to
be posted.

[Ben. Act V

(Part III.—Of Boundary-marks.—Sections 16—20.)

Appor-
tionment
of
expenses.

16. All expenses incurred by the Collector in erecting temporary or permanent boundary-marks under this Act, shall, in manner hereinafter provided, be apportioned among, and levied from, the *zamindars* and tenure-holders on their estates :

Provided that no tenure-holder shall be liable to pay any portion of the expenses incurred by the erection of boundary-marks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundary-mark.

Rent-free
lands
deemed
part of
tenure.

17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included ; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint :

Provided that no rent-free holding of which the annual value is less than five rupees shall be liable to pay any portion of the expenses of erecting boundary-marks under this Act.

Procedure
when
occupant
fails to
maintain
boundary-
mark.

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark, and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark.

Zamindar,
etc., bound
to preserve
boundary-
marks and
give notice
to Collec-
tor when
injured.

19. Every *zamindar*, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured, destroyed or removed, or require repairs.

Collector
may re-
erect-
injured
boundary-
marks and
recover
expenses
from
zamindar,
etc.

20. Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses, incurred in respect of such re-erection, restoration or repair, in such proportions as he shall think fit, from the *zamindars* and tenure-holders to whom such boundary-mark may have been assigned in that respect under the provision of section 29 ; and all such expenses shall be recoverable as provided in section 57.

of 1875.]

(Part III.—Of Boundary-marks.—Part IV.—Of the Apportionment and Recovery of Expenses.—Sections 21—25.)

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land under the directions of the said Collector, and with the consent of such occupant.

Collector may cause boundary-mark to be erected by occupant of land with his consent.

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be apportioned and recovered as provided in Part IV.

PART IV.

OF THE APPORTIONMENT AND RECOVERY OF EXPENSES.

22. Upon the completion of the erection of boundary-marks on any tract of land of which the survey may have been ordered, or on any convenient portion thereof, the Collector shall forthwith prepare a statement of all expenses incurred in respect of such boundary-marks.

Collector to prepare statement of expenses in respect of boundary-marks.

23. Such statement shall show the total number of marks of each description which have been erected on such tract or portion of such tract, the aggregate cost of erecting all the marks of each description, the names of the estates and *mauzas* within, or on the boundaries of which any marks have been erected, and the total number of marks of each description erected within or on the boundary of each estate.

Contents of statement.

24. Upon the completion of such statement the Collector shall provisionally apportion the aggregate expenses of erecting the marks among the estates specified, with reference to the number of boundary-marks of each description which have been erected within or on the boundary of each estate.

Collector to apportion cost of erecting marks among estates.

25. So soon as the provisional apportionment shall have been made as required by the last preceding section, the Collector shall cause a notice to be served on the *zamindar* of every estate on which the expenses have been apportioned—

Notice to be served.

- (a) specifying the sum which has been apportioned on his estate, and, as far as can be calculated, the sum which he will be required to pay on account of the service of notices on him under this section and section 29 ;
- (b) informing him that the said statement is open to inspection in the office of the Collector ;

[Ben. Act V

*(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sections 26, 27.)*

- (c) calling on him to appear in person, or by agent properly authorized, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses ;
- (d) warning him that if he does not appear on the date fixed in pursuance of the notice, he will be deemed to have waived all objections to the share of the expenses apportioned to his estate ;
and (unless as otherwise hereinafter provided in sections 31, 32 and 33) ;
- (e) informing him that under this Act, he is entitled to recover a portion of the amount which shall be finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice) ; and that in order to enable the Collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures, as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure ;
- (f) and warning him that if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector
to make
final
appor-
tionment.

26. On the date fixed in such notice the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses as shall seem to him fit.

In making such final apportionment the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate ; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the *zamindars* of such estates.

Collector
may post-
pone final
appor-
tionment.

27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the *zamindar* of any estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

of 1875.]

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sections 28—30.)

28. Any *zamindar* failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date ; and any *zamindar* failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

Zamindar failing to appear deemed to have waived objections.

29. So soon as the expenses shall have been finally apportioned under section 26 among the estates concerned as hereinbefore provided, the Collector shall issue a notice in respect of every estate, specifying the amount finally apportioned as payable in respect of the estate, and requiring the *zamindars* to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice.

Collector to issue notice specifying amount finally apportioned.

If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six *per centum per annum*, as the ¹[State Government] may from time to time determine, may be levied as provided in section 57.

The notice issued under this section shall assign to the *zamindar*, or to the *zamindar* jointly with tenure-holders, the boundary-marks which they are legally bound to preserve under the provisions of section 19, and in respect of which they will be held liable to pay the costs of re-erection, maintenance and repair, under the provisions of section 20.

Notice shall assign boundary-marks which zamindars are bound to preserve.

30. If the *zamindar* of any estate shall give in a list of tenures, as referred to in section 25, with an application to the Collector to apportion between his estates and the tenures the amount which has been apportioned as payable in respect of his estates as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the *zamindar* and the tenure-holders, to serve notices on the said tenure-holders in the manner provided in section 25, and to make a final apportionment among the said *zamindar* and tenure-holders in the manner provided in sections 26 and 27 ; and the provisions of section 28 shall be applicable to such tenure-holders :

Collector to apportion between zamindar and tenure-holders.

Provided that no separate notice shall be served under this section in respect of the provisional or final apportionment of the sum payable in respect of any tenure, if such sum be less than two rupees ; but in respect of all such sums it shall be sufficient to publish a list showing the sums apportioned as payable.

No separate notice in respect of apportionment of sum less than two rupees.

¹See foot-note 1 on page 235, *ante*.

[Ben. Act V

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sections 31, 32.)

Such list shall be published by being posted at the office of the subdivisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

Summary
apportion-
ment
between
samindar
and
tenure-
holders.

31. Notwithstanding anything in this Part contained, whenever the Collector may consider that he has sufficient information (whether derived from papers compiled for the purposes of the road-cess, from inquiries made in the course of proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the *zamindars* of, and the holders of, tenures, in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the *zamindar* to give in any list of tenures as provided in clause (e) of section 25, proceed to make a provisional apportionment between the *zamindars* and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

Notice to
samindar
when
provisional
appor-
tionment
made
summarily.

32. Whenever any provisional apportionment of the sum payable between the *zamindars* and the tenure-holders may have been made summarily, as provided in the last preceding section,

the notice to be served on the *zamindar* under section 25 shall inform the *zamindar*, in addition to the particulars specified in clauses (a), (b), (c) and (d) of the said section, and instead of those specified in clauses (e) and (f),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate ; and

that the Collector has made a provisional apportionment of the said sum between the *zamindar* and tenure-holders according to a list which shall be annexed to the said notice ;

and shall warn him—

that if he fails to prefer any objection to such provisional apportionment on or before the date specified, he will be deemed to have given up all right to prefer any such objection at any future time ; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit :

Provided that the sum finally made payable by the *zamindar* shall not exceed the sum apportioned upon him in the said provisional apportionment between the *zamindars* and the tenure-holders.

of 1875.]

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sections 33—36.)

33. As soon as a provisional apportionment between the *zamindar* and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the *zamindar* under section 30.

Procedure
on provi-
sional
appor-
tionment.

34. In apportioning the amount among the *zamindars* and the tenure-holders the Collector shall first deduct such sum as he shall consider to be fairly payable by the *zamindar* in respect of lands not included in any tenure, and in respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures he shall take into consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundary-mark.

Mode of
appor-
tionment
among
tenures.

35. So soon as the final apportionment among tenure-holders under section 30 shall be completed, the Collector shall cause to be issued notices to each of the said tenure-holders stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six *per centum* from the date on which the *zamindar* paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the *zamindar* of the estate of which the tenure is a part, within one month of the date of the notice:

Notice of
appor-
tionment
in respect
of
tenures.

Provided that no separate notice shall be served under this section on any tenure-holder who is required to pay a sum of less than two rupees as his share of the expenses apportioned under this Act; but in respect of such sums it shall be sufficient to publish a list in the manner prescribed by section 30, and no costs incurred in respect of the publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two rupees.

No
separate
notice to
tenure-
holder
required to
pay less
than two
rupees.

36. Notwithstanding anything contained in section 35, the Collector shall not issue the notices therein mentioned to the tenure-holders until the *zamindars* concerned shall have deposited with the Collector the full amount of the costs of serving all the notices, and of publishing the lists as required by that section.

Collector
not to
issue
notices to
tenure-
holders
until
zamindars
have
deposited
costs.

[Ben. Act V

(Part IV.—Of the Apportionment and Recovery of Expenses.—

Part V.—Boundary-disputes.—Sections 37—41.)

Apportionment between tenure-holder and holder of subordinate tenure.

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and 35 shall be applicable, as far as possible, to every case in which any tenure-holder who has been made liable for the payment of any share of expenses under this Act may apply to the Collector to apportion the amount for which he has been made liable between himself and the holders of subordinate tenures direct from himself ;

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a summary way between a *zamindar* and the tenure-holder on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure :

Provided always that no such apportionment shall be made in respect of *rai-yats* who have a right of occupancy only, and whose rent is not fixed in perpetuity.

Recovery of sums payable to *samindar* or tenure-holder.

38. Every *zamindar* or tenure-holder to whom any sum is payable under the preceding sections may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrears of rent in respect of the tenure for which the sum is due.

Recovery of sums expended by Government.

39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November 1874 in erecting boundary-marks.

PART V.

BOUNDARY DISPUTES.

Procedure in case of disputes as to boundary.

40. If it shall come to the notice of the Collector in the course of a survey under this Act, that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such inquiry as he may deem necessary, may determine such boundary as hereinafter provided.

Mode of determining boundary.

41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks ;

Force of Collector's order.

and the order of the Collector under this section shall, until it be reversed or modified by competent authority, have the force of an order of any Civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector.

of 1875.]

(Part V,—Boundary-disputes.—Sections 42—44.)

42. If, after holding the necessary inquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the inquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land.

Power of Collector to take possession of land in dispute.

43. Whenever the Collector thinks it necessary to decide a dispute as to any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration.

Power to refer to arbitration.

Act V of 1908.

The procedure laid down in ¹[section 89 of, and Schedule II to, the Code of Civil Procedure, 1908,] shall, so far as may be practicable, be applicable to disputes so referred to arbitration.

44. If the boundary regarding which the dispute exists as mentioned in section 40 shall at any previous time have been determined by any Court of competent jurisdiction, or shall have been laid down and shown on a map in the course of any previous revenue-survey or settlement, and no objection to the boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection ;

Relaying boundary previously determined by Court or by revenue survey.

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the ²[Government] may be affected, the Collector shall,

and whenever the disputes relates to any other boundary, the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shown on the map, and cause such boundary to be shown on the survey-map, with an explanatory note to the same :

Provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party, and shall be in addition to the determination and record of the boundary according to actual possession required by section 41.

Nothing contained in this section shall be held to prohibit the Collector from deviating from a boundary as held by actual possession or as shown on a former map, and laying down a new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shown on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary.

Collector may deviate from boundary if parties agree.

¹These words and figures were substituted for the words and figures "Chapter VI of Act VIII of 1859 (the Code of Civil Procedure)" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 1 on page 234, ante.

[Ben. Act V

(Past V.—Boundary-disputes.—Sections 45, 46.)

The reason for every such deviation shall be recorded in the Collector's proceedings.

Power of
Collector
in case of
doubt or
dispute as
to
boundary
determined
by
Court or
laid down
by survey.

45. If it shall come to the notice of the Collector at any time, or in any manner, that a doubt or dispute exists in respect to any boundary—

(a) which has at any time been determined by a competent Court ; or

(b) which has been laid down and shown on a map, in the course of a previous revenue-survey or settlement, or other proceeding of a revenue-officer for any special purpose, and against which no objection has been preferred to any authority competent to decide upon such objection ; or

(c) which has been laid down by survey under this Act,—

the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act,

and for the purpose of so relaying the boundary he may make any inquiries and surveys which may be necessary, and such inquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries and surveys under that section,

In certain
cases
Collector
may cause
marks to
be
erected.

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section and to the apportionment of the cost thereof.

of 1875.]

(Part VI.—Miscellaneous.—Sections 47—49.)

PART VI.

MISCELLANEOUS.

47. Whenever any estate or tenure is held jointly by two or more *zamindars* or tenure-holders, all such *zamindars* and tenure-holders shall be jointly and severally liable in respect of every liability imposed on *zamindars* or tenure-holders respectively by this Act,

Joint
zamindars
subject to
every
liability
imposed
on
single
zamindars.

and any shareholder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

48. Every notice in and by this Act required to be served on any person may be served—

Service of
notice.

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed ; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside ; or
- (3) by posting a copy of the notice at any *mal-cutchery* of the estate or tenure of the person to whom the notice is directed ; or if no such *mal-cutchery* be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

49. No proceedings under this Act shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with ; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on any *zamindars* whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

No
proceedings
under Act
affected by
mistake or
misdescription.

[Ben. Act V

2 (Part VI.—Miscellaneous.—Sections 50—54.)

Power of
Collector
to enforce
attendance
of
witnesses.

50. For the purpose of any inquiry under this Act the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure ¹[1908.]

Act V of
1908.

Daily fine
for failure
to comply
with
requisition
in notice.

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any inquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees, and such fine shall be payable daily until the requisition is complied with ; and the Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

Penalty for
not giving
notice of
injury to
boundary-
mark.

52. Any person, being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred rupees, to be imposed by order of the Collector.

Penalty for
removing
boundary-
marks.

53. Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code) which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred rupees, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged.

Act XLV
of 1860.

Collector
may award
portion of
fine to
informer.

54. The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realized, to any person who may have given information leading to the imposition of the fine.

¹This figure was inserted by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1875.]

(Part VI.—Miscellaneous.—Sections 55—58.)

Act V of
1898.

55. A fine under sections 51, 52 and 53 may be levied, as far as may be practicable, in the manner provided in ¹[sections 386, 387 and 389 of the Code of Criminal Procedure, 1898]; but if no moveable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue.

Levy of
fine.

56. Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants, of such of the contiguous lands and in such proportions, as to the Collector may seem fit.

When
person re-
moving
boundary-
mark
cannot be
found,
Collector
may
repair.

57. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to be a demand ² ***

Every
amount
due deemed
a demand.

58. Except as provided in sections 59 and 60, no appeal shall lie as of right, against any order passed under this Act by any officer; but

Appeal
against
orders.

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector;

Supervi-
sion of
proceed-
ings.

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the Commissioner of the Division; and

the proceedings and orders of all officers, to the supervision and control of the ³[State Government]:

Provided that ⁴[the State Government] may order that in the course of any survey under this Act, the functions of the Commissioner shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the ⁵[State Government] direct.

Govern-
ment may
restrict
functions
of Com-
missioner.

¹These words and figures were substituted for the words and figure "section 807 of the Code of Criminal Procedure" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²The words and figures "under section 2 of Bengal Act VII of 1868 (*an Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*), and shall be leviable as such," were repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).

³The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴See foot-note 3 on page 235, *ante*.

[Ben. Act V

(Part VI.—Miscellaneous.—Sections 59—63.)

Appeal
against
certain
orders of
Assistant
Superin-
tendent or
Deputy
Collector.

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent—

- (a) determining under section 8 the amount to be paid as the price of materials or labour supplied ;
- (b) determining under section 10 the amount to be paid as compensation ;
- (c) deciding a boundary-dispute ;
- (d) imposing a fine under this Act.

Appeal
-
certain
orders of
Collector
or Superin-
tendent of
Survey.

60. An appeal if presented within one month of the date of the order appealed against, shall lie to the Commissioner of the Division against every order of the Collector or Superintendent of Survey—

- (a) determining under section 8 the amount to be paid as value of materials or labour supplied ;
- (b) determining under section 10 the amount to be paid as compensation ;
- (c) determining a disputed boundary ;
- (d) imposing a fine of more than fifty rupees on any person :

Provided that the order appealed against under clauses (a), (b) and (c) shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

Orders as
to costs on
appeal.

61. The Commissioner, Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

No suit to
be brought
unless
appeal first
preferred.

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

Power of
State
Govern-
ment to
make
rules.

63. The ¹[State Government] may lay down rules not being inconsistent with this Act,—

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act ;

¹ See foot-note 8 on page 251 ante.

of 1875.]

(Part VI.—Miscellaneous.—Section 63.)

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All inquiries ordered to be made for the collection of information under such rules shall be deemed to be inquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries under that section.

Bengal Act I of 1876
(THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES
REGISTRATION ACT 1876.)

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Bengal Act I of 1876

(THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES REGISTRATION ACT, 1876.)¹

SHORT TITLE GIVEN

Act I of 1903.

AMENDED

- { Ben. Act VI of 1932.
- { Ben. Act I of 1935.
- { Ben. Act XVI of 1946.

ADAPTED

- { (a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.
- { (b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.
- { (c) The Adaptation of Laws
Order, 1950.

(19th January, 1876.)

*An Act to provide for the voluntary registration of Muhammadan
Marriages and Divorces.*

WHEREAS it is expedient to provide for the voluntary registration of marriages and divorces among Muhammadans ;

It is enacted as follows :—

1. This Act shall commence and take effect in those districts in ²[West Bengal Bihar or Orissa to which the State³ Government concerned] shall extend it by an order published in the ⁴[*Official Gazette*] ; and thereupon this Act shall commence and take effect in the districts named in such order, on the day which shall be in such order provided for the commencement thereof.

Local
extent.

2. In this Act, unless there be something repugnant in the subject or context,—

Inter-
pretation.

“Muhammadan Registrar” means any person who is duly authorized under this Act to register marriages and divorces :

“Muham-
madan
Registrar”

¹SHORT TITLE—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1873, Pt. IV, page 1526 ; and for Proceedings in Council, see *ibid.*, 1873, Supplement, page 1586 ; *ibid.*, 1875, Supplement, pages 1, 55, 119, 175, 407, 437 and 1358.

LOCAL EXTENT.—This Act extends only to districts notified under sec. 1.

²Substituted for the words “the provinces subject to the Provincial Government of Bengal to which the said Provincial Government” by paragraph 3 (1) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³The word “State” was substituted for the word “Provincial” by para 4(1) of the Adaptation of Laws Order, 1950.

⁴These words were substituted for the words “*Calcutta Gazette*”, by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act I

(Sections 3—6.)

“Inspector-General of Registration.”
“Registrar.”

“Inspector-General of Registration” and “Registrar” respectively mean the officers so designated and appointed under the Indian Registration Act, ¹[1908] or other law for the time being in force for the registration of documents :

XVI of
1908.

“District.”

“district” means a district formed under the provisions of the Indian Registration Act, ¹[1908] :

“*Parda-nashin*.”

“*parda-nashin*” means a woman who, according to the custom of the country, might reasonably object to appear in a public office.

State Government may grant licenses to register.

3. It shall be lawful for the ²[State] Government to grant a license to any person, being a Muhammadan, authorizing him to register Muhammadan marriages and divorces which have been effected within certain specified limits, on application being made to him for such registration ; and in like manner it shall be lawful for the said ²[State] Government to revoke or suspend such license :

Provided that no more than two persons shall be licensed to exercise the said function within the same limits ; and provided further that, when two persons are so licensed to act within the same limits, the one shall be a member of the *Sunni*, and the other of the *Shia*, sect.

Muhammadan Registrars to use seals.

4. Every Muhammadan Registrar shall use a seal bearing the following inscription in the Persian character and language ; “The seal of the Muhammadan Registrar of...”

Government to provide seal and books.

5. The ²[State] Government shall supply for the office of every Muhammadan Registrar the seal and the books necessary for the purposes of this Act.

The pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the Officer by whom such books are issued.

Muhammadan Registrar to keep registers.

6. Every Muhammadan Registrar shall keep up the following register-books :—

BOOK I.—Register of marriages ³[including marriages of women who have effected divorces of the kind known as *Talaq-i-tafweez*], in the Form A contained in the schedule to this Act.

¹This figure was substituted for the figure “1871” by sec. 2 of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

²See foot-note 3 on page 257, *ante*.

³These words were inserted by sec. 3 (a) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act, I of 1935).

of 1876.]

(Sections 7, 8.)

BOOK II.—Register of divorces other than those of the kind known as *khula* ¹[or *Talaq-i-tafweez*] in the Form B contained in the schedule to this Act.

BOOK III.—Register of divorces of the kind known as *khula*, in the Form C contained in the schedule to this Act.

^a**BOOK IV.**—Register of divorces of the kind known as *Talaq-i-tafweez* in the Form D contained in the schedule to this Act.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year a fresh series being commenced at the beginning of each year.

Entries to be numbered.

8. Every application for registration under this Act shall be made to the Muhammadan Registrar orally as follows :—

Applications, by whom to be made.

if the application be for the registration of a marriage ^a[including the registration of a marriage of a woman who has effected a divorce of the kind known as *Talaq-i-tafweez*]

by the parties to the marriage jointly : provided that if the man, or the woman, or both, be minors, application shall be made on their behalf by their respective lawful guardians : and provided further that, if the woman be a *parda-nashin*, such application may be made on her behalf by her duly authorized *vakil* ;

if the application be for registration of a divorce other than of the kind known as Khula ^a[or *Talaq-i-tafweez*]

by the man who has effected the divorce ;

if the application be for the registration of a divorce of the kind known as Khula—

by the parties to the divorce jointly : provided that, if the woman be a *parda-nashin*, such application may be made on her behalf by her duly authorized *vakil* ;

¹These words were inserted by sec. 3 (b) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

^aThis paragraph was added by sec. 3(c), *ibid.*

^aThese words were inserted by sec. 4(a), *ibid.*

^aThese words were inserted by sec. 4(b), *ibid.*

(Sections 9, 9A.)

¹[if the application be for the registration of a divorce of the kind known as *Talak-i-tafweez*—

by the woman who has effected the divorce :

provided that, if the woman be a *parda-nashin*, such application may be made on her behalf by her duly authorized *vakil*.]

Duties of
Muham-
madan
Registrar
on applica-
tion.

9. On application being made to a Muhammadan Registrar for registration under this Act of a marriage or divorce within one month of the marriage or divorce being effected, and not otherwise, and ²[on payment of the fee specified in this behalf by rules made under section 24,] the Muhammadan Registrar shall—

- (a) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected ;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that marriage or divorce has been effected ;
- (c) in the case of any person appearing as representative of the man or woman (whether he³[appears] as guardian or *vakil*) satisfy himself of the right of such person to appear.

If the Muhammadan Registrar be satisfied on the above points, and not otherwise, he shall make an entry of the marriage or divorce in the proper register :

Provided that no such entry shall be made otherwise than in the presence of every person who, by section 11 of this Act, is required to sign such entry.

Duties of
Muham-
madan
Registrar
in certain

⁴9A. The Muhammadan Registrar shall not register—

- (a) a marriage of a woman who has effected a divorce of the kind known as *Talaq-i-tafweez*—
 - (i) except on the production of a document registered under the Indian Registration Act, 1908, or under any other law for the time being in force for the registration of documents, or of a certified copy of such document, or of a certified copy of the order of

XVI of
1908.

¹These words were inserted by sec. 4(c) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

²These words were substituted for the words "on payment to him of a fee of one rupee" by sec. 2 of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1932 (Ben. Act VI of 1932).

³Substituted by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for the word "appear."

⁴Section 9A was inserted by sec. 5 of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

of 1876.]

(Sections 10, 11.)

the District Judge or any Court of competent jurisdiction, showing that such divorce has been effected or of an attested copy of an entry of the divorce in the register of divorces of the kind known as *Talaq-i-tafweez* (Book IV) ;

(ii) notwithstanding anything contained in section 9, within six months of the date of divorce of the previous husband of the woman ;

(iii) without giving to the previous husband of the woman by registered post one month's notice in such form containing such particulars as may be prescribed by rules made under section 24 ;

(b) a divorce of the kind known as *Talaq-i-tafweez* except on the production of a document registered under the Indian Registration Act, 1908, or under any law for the time being in force for the registration of documents, by which the husband delegated the power of divorce to the wife or of an attested copy of an entry in the register of marriages (Book I) showing that such delegation has been made.

XVI of
1908.

10. [Muhammadan Registrar may receive gratuity.]—Rep. by the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1932 (Ben. Act VI of 1932).

11. Every entry in a register kept under this Act shall be signed as follows :—

Entries by
whom to
be signed.

if the entry be of a marriage in a register in the Form A contained in the schedule to this Act,—

(1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively : provided that, if the woman be a *parda-nashin*, the entry may be signed on her behalf by her duly authorised *vakil* ;

(2) by two witnesses who were present at the marriage-ceremony ;

(3) in cases in which the woman is represented by a *vakil*—by two witnesses of the fact of the *vakil* having been duly authorized to represent her ;

(4) by the Muhammadan Registrar ;

if the entry be of a divorce other than the kind known as *Khula* ¹[or *Talaq-i-tafweez*] in a register in the Form B contained in the schedule to this Act,—

(1) by the man who has effected the divorce ;

¹These words were inserted by sec. 6(a) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

[Ben. Act I

(Sections 12, 13.)

- (2) by the witness who identifies the man who has effected the divorce ;
- (3) if the man be of the *Shia* sect—by two witnesses to the divorce being effected ;
- (4) by the Muhammadan Registrar ;

if the entry be of a divorce of the kind known as Khula in a register in the Form C contained in the schedule to this Act,—

- (1) by the parties to the *Khula* : provided that, if the woman be a *parda-nashin*, the entry may be signed on her behalf by her duly authorized *vakil* ;
- (2) by the person who identifies the man ;
- (3) by the person who identifies the woman ;
- (4) if the application for registration has been made by a *vakil* on behalf of the woman—by two witnesses to the fact of the *vakil* having been duly authorized to represent her ;
- (5) if the man be of the *Shia* sect—by two witnesses to the divorce being effected ;
- (6) by the Muhammadan Registrar ;

¹*[if the entry be of a divorce of the kind known as Talaq-itaftweez in a register in the Form D contained in the schedule to this Act,—*

- (1) by the woman who has effected the divorce ;
- (2) by the person who identifies the woman who has effected the divorce ;
- (3) if the woman be of the *Shia* sect—by two witnesses to the divorce being effected ;
- (4) by the Muhammadan Registrar.]

Copies of
entry to be
given to
parties.

12. On completion of the registration of any marriage or divorce, the Muhammadan Registrar shall deliver to each of the applicants for registration an attested copy of the entry ; and for such copy no charge shall be made.

Index to
be kept.

13. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register ; and every entry in such index shall be made, so far as practicable, immediately after the Muhammadan Registrar has made an entry in any such register.

¹These words and figures within square brackets were inserted by sec. 6(b) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

of 1876.]

(Sections 14—18.)

14. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage or divorce, and the date of registration.

Particu-
lars to be
shown in
index.

It shall also contain such other particulars, and shall be prepared in such form, as the ¹[State] Government may direct.

15. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Muhammadan Registrar or of the Registrar of the district, and the copies of entries in such index, which are filed in the office of the Registrar of the district under the provisions of section 22 of this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the Registrar of the district under section 22 of this Act, shall be given to all persons applying for such copies.

Index may
be inspec-
ted and
copies of
entries in
registers
taken.

Such copies shall be signed and sealed by the Registrar of the district or by the Muhammadan Registrar, as the case may be.

16. Every Registrar of a district and every Muhammadan Registrar shall, for the purposes of this Act, be entitled to levy the following fees:—

Fees for
searches
and copies.

for every search or permission to search in any index or register under his charge—four annas :

for every certified copy of any entry in a register other than the first copy referred to in section 12 of this Act—one rupee.

17. Every Muhammadan Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Muhammadan Registrar is situate.

Muham-
madan
Registrar
to be
subject to
control of
District
Registrar.

In the town of Calcutta every Muhammadan Registrar shall perform the duties of his office under the superintendence and control of the Inspector-General of Registration.

Every Registrar, and in the town of Calcutta the Inspector-General of Registration, shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Muhammadan Registrar subordinate to him.

18. The Inspector-General of Registration shall exercise a general superintendence over offices of all Muhammadan Registrars, and shall have power from time to time to frame rules consistent with this Act, for the guidance of the said Muhammadan Registrars and the regulation of their offices generally.

Inspector-
General of
Registra-
tion to

superin-
tendence.

¹See foot-note 3 on page 257, *ante*.

Rules to be
approved by State
Govern-
ment and
published
in Gazette.

19. All rules framed in accordance with the last preceding section shall be submitted to the ¹[State] Government for approval and after they have been approved they shall be published in the *Official Gazette*, and shall then have the same force as if they were inserted in this Act.

Refusal to
register to
be recorded.

20. Every Muhammadan Register refusing to register a marriage or divorce shall make an order of refusal, and record his reasons for such order in a book to be kept for that purpose.

Appeal
against
refusal to
register.

21. An appeal shall lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce, to the Registrar to whom such Muhammadan Registrar is subordinate, if presented to such Registrar within 20 days from the date of the order, and the Registrar may reverse or alter such order; and the order passed by the Registrar on appeal shall be final.

Copies of
entries to
be sent
monthly to
Registrar
of district.

22. Every Muhammadan Registrar shall, at the expiration of every month send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 13 and 14 of this Act, to the Registrar of the district within which such Muhammadan Registrar has been authorized to act, and the Registrar, on receiving such copies, shall file them in his office.

Registers
to be given
up.

23. Every Muhammadan Registrar shall keep safely each register until the same shall be filled, and shall then or earlier if he shall leave the district or cease to hold a license, make over the same to the Registrar of the district for safe custody, or to such other person as the Registrar may direct.

State
Govern-
ment may
prescribe
rules.

24. The ¹[State] Government may from time to time prescribe such rules as ²[it] thinks fit, provided that such rules be not inconsistent with any provision of this Act,—

(a) for determining the qualifications to be required from persons to whom licenses under section 3 of this Act may be granted;

³(aa) for regulating the fee payable to a Muhammadan Registrar under section 9;

¹See foot-note 3 on page 257, *ante*.

²This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Clause (aa) was inserted by sec. 4 of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1932 (Ben. Act VI of 1932).

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(Sections 25, 26.)

- ¹(aaa) for regulating the forms, contents and other particulars of notices under section 9A ;
- (b) for regulating the attendance of Muhammadan Registrars at the celebration of marriages, and their remuneration for such attendance ;
- (c) for regulating the grant of copies by Registrars and Muhammadan Registrars ;
- (d) for regulating the payment by the Muhammadan Registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by the Government ;
- (e) for regulating the application of the fees levied by Registrars of districts and Muhammadan Registrars under this Act ; and
- (f) for regulating such other matters as appear to the ²[State] Government necessary to effect the purposes of this Act.

The ³[State] Government may from time to time cancel or alter any such rules.

25. Every Muhammadan Registrar shall be, and be deemed to be a public officer, and his duties under this Act shall be deemed to be public duties.

Muham-
madan
Registrar a
public
officer.

26. Nothing in this Act contained shall be construed to—

Saving
clause.

- (a) render invalid, merely by reason of its not having been registered, any Muhammadan marriage or divorce which would otherwise be valid ;
- (b) render valid, by reason of its having been registered any Muhammadan marriage or divorce which would otherwise be invalid ;
- (c) authorise the attendance of any Muhammadan Registrar at the celebration of a marriage, except at the request of all the parties concerned ;
- (d) affect the religion or religious rites and usages of any of ³[Citizens of India] ;
- (e) prevent any person, who is unable to write, from putting his mark instead of the signature required by this Act.

¹Clause (aaa) was inserted by sec. 7 of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Bengal Act I of 1935).

²See foot-note 3 on page 257, *ante*.

³Substituted for the words "His Majesty's subjects in India" by para. 8 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

(Schedule.)

SCHEDULE.

(See sections 6 and 11.)

FORM A. BOOK I.

Register of Marriages ¹[including marriages of women who have effected divorces of the kind known as *Talaq-i-tafweez*] (as prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the bridegroom and that of his father, with their respective residences.

3. Name of the bride and that of her father, with their respective residences.

4. Whether the bride is a spinster, a widow or divorced by a former husband ²[or has effected a divorce of the kind known as *talaq-i-tafweez*], and whether she is adult or otherwise.

‡³5. If the bride has effected a divorce of the kind known as *Talaq-i-tafweez*, particulars of the document produced to prove the same.

‡³6. If the bride has effected a divorce of the kind known as *Talaq-i-tafweez*, the date on which and place where the same was registered, with name and residence of the previous husband.

‡7. †Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.

‡8. †Name of the guardian of the bride (if she be a minor) and that of his father, with specification of his residence, and the relationship in which he stands to the bride.

‡9. §Name of the bride's *vakil* and of his father, and their residences, with specification of the relationship in which the *vakil* stands to the bride.

‡10. §Names of the witnesses to the due authorization of the bride's *vakil*, with names of their fathers and residences, and specification of the relationship in which they stand to the bride.

¹These words were inserted by sec. 8(a)(i) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

²These words were inserted by sec. 8(a)(ii), *ibid.*

³Entries 5 and 6 were inserted by sec. 8(a)(iii), *ibid.*

‡Entries 5 to 20 were renumbered consecutively by sec. 8(a)(v), *ibid.*

†These columns will be blank if the bride and bridegroom, respectively, are not represented by guardians.

§These columns will be blank when the bride is not represented by a *vakil*.

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(Schedule.)

‡11. Date on which the marriage was contracted,—to be given according to the English style and according to the era current in the district.

‡12. Amount of dower.

‡13. How much of the dower is *mu'ajjal* (prompt) and how much *mu'wajjal* (deferred).

‡14. Whether any portion of the dower was paid at the moment. If so, how much.

‡15. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.

‡16. Special conditions, if any.

‡17. Names of village or town, police jurisdiction and district in which the marriage took place.

‡18. Name of the person in whose house the marriage ceremony took place, and that of his father.

‡19. Whether the husband has delegated the power of divorce to the wife.

‡20. Date of registration,—to be given according to the English style.

FORM B. BOOK II.

Register of Divorces, other than those of the kind known as Khula²[or Talaq-i-tafweez] (prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Names of the husband and of his father, and their residences.

3. Names of the wife and of her father, and their residences.

4. Date of divorce—according to the English style and according to the era current in the district.

5. Description of divorce.

6. Manner in which the divorce was effected.

7. Names of the village or town, police jurisdiction and district in which the divorce took place.

¹This entry was inserted by sec. 8(a)(iv) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

²These words were inserted by sec. 8(b) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

‡Entries 5 to 20 were re-numbered consecutively by sec. 8(a)(v) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

[Ben. Act I

(*Schedule.*)

8. Name of the party in whose house the divorce took place, and of his father.

9. Names of witnesses to the divorce, if any, the names of their fathers, and their respective residences.

10. Name of party identifying the husband before the Muhammadan Registrar and that of his father, and their residences.

11. Date of registration,—to be given according to the English style.

FORM C. BOOK III.

Register of Divorces of the kind known as Khula (prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the husband and that of his father, and their residences.

3. Name of the wife and that of her father, and their residences.

4. Date of *Khula*—according to the English style and according to the era current in the district.

5. Amount of dower.

6. Whether *Khula* was acknowledged by the wife in person before the Muhammadan Registrar.

7. If so, name of the party identifying her before the Muhammadan Registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.

8. *If the *Khula* be acknowledged before the Muhammadan Registrar by the wife's *vakil*, his name and that of his father and their residences, with specification of the relationship which the *vakil* bears to the wife, if any.

9. Names of the two witnesses to the due authorization of the wife's *vakil*, and those of their fathers, with their residences.

10. Name of village or town, police jurisdiction and district where the *Khula* took place.

11. Name of the person in whose house the *Khula* took place and that of his father.

12. Names of the witnesses, if any, to the divorce being effected, the names of their fathers and their residences.

*This column will be blank if the woman is not represented by a *vakil*.

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(Schedule.)

13. Name of the person identifying the husband, and that of his father and their residences.

14. Date of registration,—to be given in the English style.

¹FORM D. BOOK IV.

Register of Divorces of the kind known as Talaq-i-tafweez (as prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Name of the husband and that of his father, and their residences.

3. Name of the wife and that of her father, and their residences.

4. Name of the party indentifying the wife before the Muhammadan Registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.

5. Particulars of documents produced to prove delegation of power to the wife to divorce the husband.

6. Date of *Talaq-i-tafweez*—according to the English style and according to the era current in the district.

7. Amount of dower.

8. Name of the village or town, police jurisdiction and district where the *Talaq-i-tafweez* took place.

9. Name of the person in whose house the *Talaq-i-tafweez* took place, and that of his father.

10. Names of the witnesses, if any, to the divorce being effected, the names of their fathers and their residences.

11. Date of registration—to be given in the English style.

¹Form D., Book IV, was added by sec. 8(c) of the Bengal Muhammadan Marriages and Divorces Registration (Amendment) Act, 1934 (Ben. Act I of 1935).

Bengal Act III of 1876

(THE BENGAL IRRIGATION ACT, 1876.)

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[Ben. Act III

(Part I.—Preliminary.—Sections 2, 3.)

2. [Repeal of Acts.]—Rep. by sec. 4 and Schedule III of the Amending Act, 1903 (I of 1903).

Interpreta-
tion-clause.

3. In this Act; unless there be something repugnant in the subject or context,—

“Canal.”

(1) “canal” includes—

- (a) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government for the supply or storage of water, or which may hereafter be constructed, maintained or controlled ;
- (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs ;
- (c) all village-channels as defined in clause (2) of this section ;
- (d) all drainage-works as defined in clause (3) of this section ;
- (e) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the ¹[State Government] has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal ;
- (f) all lands on the banks of any canal as defined in articles (a), (b), (c), (d) and (e) of this clause, which have been acquired by Government :

“Village-
channel.”

(2) “village-channel” means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel :

“Drainage-
work.”

(3) “drainage-work” means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns :

“Flood-
embank-
ment.”

(4) “flood-embankment” means any embankment constructed or maintained by the ²[servants of the Government] in connection with any system of irrigation-

¹The words “Provincial Government” were first substituted for the words “Lieutenant-Governor” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word “State” was substituted for the word “Provincial” by para 4(1) of the Adaptation of Laws Order, 1950.

²The words “servants of the Crown” were first substituted for the words “Officers of Government” by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word “Government” was substituted for the word “Crown” by para 4(1) of the Adaptation of Laws Order, 1950.

of 1876.]

(Part I.—Preliminary.—Sections 4, 5.)

works for the protection of lands from inundation, or which may be declared by the ¹[State Government] to be maintained in connection with any such system ; and includes all groins, spurs, dams and other protective works connected with such embankments :

(5) "Collector" means the head-revenue-officer of a district, and includes any officer appointed by the ¹[State Government] to exercise all or any of the powers of a Collector under this Act : "Collector."

(6) "Court" means ²* * principal Civil Court of original jurisdiction : "Court."

* *

unless when the ¹[State Government] has appointed (as⁴[it] is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer :

(7) "canal officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof ; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by the ¹[State Government] : "Canal-officer."

(8) "section" means a section of this Act : "Section."

(9) "owner" includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. "Owner."

Ben. Act.
VI of 1873.

4. Nothing contained in the Bengal Embankment Act, 1873, shall apply to any canal or flood-embankment as defined in this Act.

Exemption
from
Bengal
Embank-
ment Act.
Power to
appoint
officers.

5. The ¹[State Government] may from time to time declare by notification in the ²[*Official Gazette*], the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

¹See foot-note 1 on page 276, *ante*.

²The words "in the Regulation Provinces" were omitted by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division" were omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵See foot-note 5 on page 275, *ante*.

(Part II.—Of the Application of Water for Public Purposes.—
Sections 6-9.)

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

Notifica-
tion when
water-
supply to
be applied
for public
purposes.

6. Whenever it appears expedient to the ¹[State Government] that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal,

the ¹[State Government] may, by notification in the ²[Official Gazette], declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of
canal-
officer.

7. At any time after the day so named, any canal-officer acting under the orders of the ¹[State Government] in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as
to claims
for com-
pensation.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy sections 11, 12 and 13 shall be annexed to every such notice.

Contents of
notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to
occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

¹See foot-note 1 on page 276, *antr.*

²See foot-note 5 on page 275, *ants.*

of 1876.]

(Part II.—Of the Application of Water for Public Purposes.—
Sections 10, 11.)

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interests, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Power to require statements as to name and interests.

If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Penalty for failure to comply.

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Person required to make statements legally bound to do so.

11. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of rafting timber or watering cattle.

Damage for which compensation shall not be awarded.

But compensation may be awarded in respect of any of the following matters:—

- (d) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground, in use at the date of the issue of the notification under section 6;
- (e) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;

Matters in respect of which compensation may be awarded.

[Ben. Act III

*(Part II.—Of the Application of Water for Public Purposes.—
Sections 19-22.)*

- (b) the names of the persons whom he has reason to think interested in such property ;
- (c) the amount fixed by him as compensation ; and,
- (d) the grounds on which such amount was determined ;

And to place amount of compensation in deposit.

and shall place the amount so fixed by him in deposit, there to be held on account of the persons interested, and shall issue a notice to the persons believed to be interested informing them that the said amount has been deposited as required by this section, and that, should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein, the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

Objections to amount of compensation fixed by Collector.

19. Any person on whom notice may be served under the same last preceding section, and any person interested in any property in respect of which such notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

Procedure in making reference.

20. In making reference under section 17 the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure on receipt of reference under section 17.

21. On receipt of a reference under section 17 the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870 :¹

X of 1870.

Provided that, instead of the last clause of the said section 26, the following shall be read :—“The provisions of this section and of section 11 of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded.”

Ben. Act III
of 1876.

Particulars of apportionment to be specified.

22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

¹Act X of 1870 was repealed and re-enacted by the Land Acquisition Act, 1894 (I of 1894), and this reference should now be construed as a reference to secs. 20 to 22 and 25 to 28 of the latter Act—see sec. 2(3) thereof.

of 1876.]

(Part II.—Of the Application of Water for Public Purposes.—
Sections 23-26.)

23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

Disputes as to apportionment.

All costs entailed by such a reference, and the proceedings of the Court thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting along shall decide the proportions in which the persons interested are entitled to share in such amount.

Determination of proportions.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

Appeal.

Act V of 1908.

Every appeal under this section shall be presented within, the time and in manner provided by the Code of Civil Procedure, ¹[1908], for regular appeals in suits.

25. Payment of the compensation shall be made by the Collector in accordance with the award made by him under section 16 ; or the proceeding held by him under section 18, if no application be made to the Courts as provided by section 19 ; or the award made by the Court or the decision of the Judge under section 21 ; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

Payment of compensation.

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding section, shall be deemed to be the full amount payable by ²[the Government] in respect of the claim dealt with therein ; and ²[the Government] shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision ; nor shall any such claim be made against ²[the Government] in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accordance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 24 ; and no suit shall be brought to set aside an award or decision under this Act.

Government not liable to further claim.

¹See foot-note 1 on page 281, *ante*.

²See foot-note 2 on page 280, *ante*.

*(Part II.—Of the Application of Water for Public Purposes.—
Sections 27-31.)*

Liability of
person
receiving
compensa-
tion not
affected.

27. Nothing contained in the last preceding section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Abatement
of rent on
interrup-
tion of
water-
supply.

28. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section II takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding :

Provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction in the value of his holding.

Enhance-
ment of
rent on
restora-
tion of
water-
supply.

29. If a water-supply increasing the value of such holding is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensa-
tion
when due.

Interest.

30. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six *per centum per annum* shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same :

Collector
may
invest
amount
deposited
or awarded
in Govern-
ment
securities.

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accrued upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such sums.

No com-
pensation
in respect
of prior
works.

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

of 1876.]

(Part II.—Of the Application of Water for Public Purposes.—
Part III.—Of the Maintenance of Canals.—Sections 32–35.)

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Service of
notice.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business ; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

OF THE MAINTENANCE OF CANALS.

33. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal or with the maintenance of an existing canal, or with a projected flood-embankment, or with the maintenance of an existing flood-embankment, any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such land as he may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870,¹ to the effect that land in that locality is likely to be needed for a public purpose ; and may set upon and maintain water-gauges, and do all other things necessary for the prosecution of such inquiry and examination.

Entry for
inquiry.

X of 1870.

34. Such canal-officer or other person may also enter upon any land, building or village-channel on account of which any water-rate is chargeable for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to
inspect and
regulate
water-
supply.

35. In case of any accident being apprehended or happening to a canal or flood-embankment, any canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal or flood-embankment and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Power to
enter for
repairs,
and to
prevent
accidents.

¹ Act X of 1870 was repealed and re-enacted by the Land Acquisition Act, 1894 (I of 1894), and this reference should now be construed as a reference to sec. 4 of the latter Act—see sec. 2 (3) thereof.

[Ben. Act III]**(Part III.—Of the Maintenance of Canals.—Sections 36-39.)**

Notice to occupier of building, etc.

36. When such canal-officer or person proposes, under the provisions of either of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Compensation for damage to land.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to proprietors or occupiers for all damage done to the same by the entry or by any works executed.

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be fixed in the notice, for the purpose of making inquiry as to the amount of compensation.

Appeal from Collector's decision to Commissioner.

38. After such inquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the Division :

Provided that such appeal be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector, or, if such appeal be preferred, the decision of the Commissioner shall be final and conclusive.

Government to provide means of crossing of canals and of drainage.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the ¹[State Government] thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Collector to certify to Government that means of crossing canals and drainage have been provided.

On the completion of any canal or of any convenient section of any canal the Collector, after causing such inspection to be made as may be necessary, shall certify to ²[the State Government] that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the above purposes is defective; and if, at any time after he shall have given such certificate, it shall be brought to his notice

¹ See foot note 1 on page 276, *ante*.

² The words 'the Provincial Government' were first substituted for the words 'the Government' by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word 'State' was substituted for the word 'Provincial' by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1876.]

(Part III.—Of the Maintenance of Canals.—Part IV.—Of Drainage.—Sections 40-42.)

that the provision made as above has proved insufficient, the Collector shall cause inquiry to be made into the circumstances of the case, and, if the statement is established, shall report his opinion thereon for the consideration of the ¹[State Government], and the ¹[State Government] shall cause such measures in reference thereto to be taken as ²[it] thinks proper.

PART IV.

Of Drainage.

40. Whenever it appears to the ¹[State Government] that injury to the public health or public convenience, or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the ¹[State Government] may, by notification published in the ³[Official Gazette], prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

State Government may prohibit formation of obstructions within certain limits.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

41. The canal-officer or other person authorized by the ¹[State Government] in that behalf may, after such publication, issue and order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

Canal-officer may issue notice to person causing obstructions.

42. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand ** * *.

Canal-officer may cause obstructions to be removed.

¹See foot note 1 on page 276, *ante*.

²See foot-note 4 on page 277, *ante*.

³See foot-note 5 on page 275, *ante*.

⁴The reference to Ben. Act VII of 1868, which was repealed by the Public Demands-Recovery Act, 1880 (Ben. Act VII of 1880), is omitted.

[Ben. Act III

(Part IV.—Of Drainage.—Part V.—Of Village-channels.—
Sections 43-47.)

When drainage works necessary, State Government may order scheme to be drawn up and carried out.

43. Whenever it appears to the ¹[State Government] that any drainage works are necessary for the public health, or for the improvement or proper cultivation or irrigation of any lands in districts to which the provisions of the Bengal Embankment Act, 1873, do not apply, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

Ben. Act
VI of
1873.

the ¹[State Government] may cause a scheme for such works to be drawn up and carried into execution, and the persons authorized by the ¹[State Government] to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33, 34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by sections 36 and 37.

Disposal of claims to compensation.

44. Whenever, in pursuance of a notification made under Section 40, any obstruction is removed or modified ;

or whenever any drainage-work is carried out under the last preceding section,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in Part II ; but no compensation shall be allowed for any damages arising from increase of percolation.

Limitation of such claims.

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART V.

Of Village-channels.

"Person" defined.

46. "Person" in this Part includes any number of persons acting jointly.

Register of village-channels to be kept.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners ; and shall register the names of the owners of every such private channel.

Extension or branch of village-channel to be registered.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village channel ; and so much of the length of any village-channel as lies within the limits of any one village or *mauza* shall be entered on the register as a separate village-channel.

¹ See foot-note 1 on page 276, ante.

of 1876.]

(Part V.—Of Village-channels.—Sections 48-51.)

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act :

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or *mauzas*, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Canal-officer may register as one village-channel section including portions lying within two or more villages.

48. Any person may, with the consent of the canal-officer, acquire the property in an existing village-channel for the purpose of improving or maintaining it—

Person may acquire existing village-channel by agreement.

(a) by taking over any village-channel belonging to ¹[the Government] ;

(b) by transfer of a village-channel from the owner thereof by private agreement.

49. Any person may, with the permission of a canal-officer construct a new village-channel if he has obtained the consent of the owner and occupiers of the land required therefor.

Construction of new village-channel.

50. Any person desiring the construction of a new village-channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the canal-officer stating—

Application by person desiring construction of new village-channel.

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel ;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

51. If the canal-officer considers the construction of such village-channel expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal-officer considers construction of village-channel expedient.

and upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said village-channel,

The words "the Crown" were first substituted for the word "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act III**(Part V.—Of Village-channels.—Sections 52-54.)**

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

Notice to person wishing to be joint owner.

Such notification shall also call upon any person who wishes to be admitted a joint owner of such village-channel to make his application in that respect within thirty days of the publication of such notification.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel constructed.

Collector to acquire land.

52. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870¹, as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

X of 1870.

Procedure after construction of village-channel.

53. On being put in possession of the land the canal-officer shall construct the required village-channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel.

On such notice being given, such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such village-channel to such applicant.

Canal-officer may direct transfer of village-channel.

54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to perfer any objection to such transfer.

¹Act X of 1870 was repealed and re-enacted by the Land Acquisition Act, 1894 (I of 1894), and this reference should now be construed as a reference to the latter Act—see sec. 2 (3) thereof.

of 1876.]

(Part V.—Of Village-channels.—Sections 55-58.)

After hearing such objection, the canal-officer may order that such village-channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel :

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-officer under section 56.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

Person may be admitted joint owner of existing village-channel.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid—

Canal-officer to fix sums payable on transfer or acquisition of joint ownership.

as the costs of the proceedings ;

as compensation to the previous owners ;

and the amount so determined shall be due by the transferee, or the person admitted to registry as a joint owner, as the case may be ; and, on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually to the previous owners by the persons to whom the village-channel is transferred.

Canal-officer may fix rent for a village-channel transferred.

58. Every person—

Ownership of village-channel.

(a) acquiring a village-channel as provided in section 48 ; or

(b) constructing a village-channel as provided in section 49 ; or

(c) receiving possession of a village-channel as provided in section 53 ; or

(d) acquiring a village-channel by transfer as provided in section 54 ; or

(e) being admitted to registration as joint owner in a village-channel as provided in section 55,

shall be deemed to be an owner of such village-channel.

(Part V.—Of Village-channels.—Sections 59-61.)

Obligations and rights of owner of village-channel.

59. Every owner of a village-channel shall be bound—

- (a) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands ;
- (b) to maintain such village-channel in a fit state of repair for the conveyance of water ;
- (c) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as hereinafter prescribed ;

and shall be entitled—

- (d) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the ¹[State Government] under section 99 ;
- (e) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.

If owner of village-channel fails to execute work or repair canal-officer may do so.

60. If the owner of a village-channel fails to fulfil the obligations mentioned in clauses (a) and (b) of the last preceding section, the canal-officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure may execute them on his behalf ;

and all expenses incurred by the execution of such works or repair shall be a sum due by such owner to Government ;

and, if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the canal-officer, shall again fail to execute any such works or repairs when required to do so ; or if any such owner shall refuse in any respect to fulfil the obligation mentioned in clause (c) of the last preceding section, after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

Resignation of ownership.

61. Any owner may resign his interest in a village-channel :

Provided such resignation be duly registered in the office of the canal-officer.

¹See foot-note 1 on page 276, *ante*.

of 1876.]

(Part V.—Of Village-channels.—Sections 62-67.)

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person :

Owner may transfer interest.

Provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

Procedure on death of owner of village-channel.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel, until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal-officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased ; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and, if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

Procedure when person applies for registration in lieu of deceased owner.

65. All joint owners of a village-channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

Interest of owners equal unless unequal interest registered.

66. Any person not an owner of a village-channel desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

Supply of water to person not owner.

67. On receipt of such application the canal-officer shall serve notice on the owners to show cause why such permission should not be granted, and, if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

Canal-officer may authorise supply.

[Ben. Act III]**(Part V.—Of Village-channels.—Part VI.—Of the Supply of Water.—Sections 68-74.)**

Canal-officer to fix rent of village-channel.

68. The canal-officer shall also fix a sum as rent to be paid for the use of such village-channel to the owner.

Such rent may be in the form of a percentage on the water-rate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

Owner of village-channel receiving supply through another village-channel.

69. The owner of a village-channel which receives its water through another village-channel may, at the discretion of the canal-officer, either be declared a joint owner of such other village-channel, or may be required to pay rent for the use of the same to the owner thereof, as provided in the last preceding section.

Instalments in which rent is payable.

70. All rent payable under either of the two last preceding sections shall be deemed to be due in the same instalments and at the same periods as the water-rate is due, or in such other instalments and at such other dates as the canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

Canal-officer to pay no more than amount collected.

71. Any canal-officer collecting rent under the last preceding section on behalf of any person entitled thereto shall be bound to pay to the person entitled to the same no more than the amount actually collected by him as rent.

Land acquired not to be used for other purpose.

72. No land acquired under this Part for a village-channel shall be used for any other purpose without the consent of the canal-officer previously obtained.

Dues how recovered.

73. Every sum declared to be due under this Part shall be recoverable by the canal-officer on behalf of the ¹[State Government] of the person entitled to receive the same, and shall be held to be a demand * * * * *

PART VI.**OF THE SUPPLY OF WATER.**

Water supplied on written application only.

74. Every person desiring that water shall be supplied to his land from a canal shall present a written application to that effect to the canal-officer, in the form given in Schedule B hereto

¹The words "Provincial Government" were first substituted for the word "Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The reference to Ben. Act VII of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), is omitted.

of 1876.]

(Part VI.—Of the Supply of Water.—Sections 75, 76.)

annexed, or in a similar form, binding himself by the rules made by the ¹[State Government] under the powers vested in ²[it] by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded in the form given in Schedule C hereto annexed, or in some similar form, binding himself by the rules made by the ¹[State Government] as aforesaid.

Written permission to be given.

76. All rules made by the ¹[State Government] under section 99 shall be consistent with the following conditions :-

Rules subject to conditions as to—power to stop water-supply.

(a) The canal-officer may not stop the supply of water to any village-channel, or to any person who is entitled to such supply, except in the following cases :—

- (1) whenever and so long as it is necessary to stop such supply for the purposes of executing any work ordered by competent authority ;
- (2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom ;
- (3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water ;
- (4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water ;

(b) No claim shall be made ³[against the Government] for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control ⁴[of the State Government], or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary ; but the person suffering

Claims to compensation in case of failure or stoppage of supply.

¹See foot-note 1 on page 276, *ante*.

²This word was substituted for the word "him" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "against the Crown" were first substituted for the words "against the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴The words "Provincial Government" were first substituted for the word "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act III]

(Part VI.—Of the Supply of Water.—Part VII.—Of Water-rates.—Sections 77, 78.)

such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the ¹[State Government] :

Claims on account of interruption from other causes ;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss.

duration of supply.

(d) when the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop ; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

sale or sub-lotting of right to use canal-water ;

(e) No person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the canal-officer, but all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

contracts for water transferable with land.

Canal-officer may supply water for purposes other than those of irrigation.

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

PART VII.

OF WATER-RATES.

Charge for water, how determined.

78. The rates to be charged for canal water supplied for purposes of irrigation shall be determined by the ¹[State Government] and all persons accepting the water shall pay for it accordingly.

¹See foot-note 1 on page 276, ante.

of 1876.]

(Part VII.—Of Water-rates.—Sections 79-84.)

79. If water supplied through a village-channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

Liability when person using water unauthorizedly cannot be identified.

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the ¹[State Government] under section 99.

80. If water supplied through a village-channel be suffered to run to waste, and if, after inquiry by the canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the ¹[State Government] under section 99.

Liability when water runs to waste.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

82. The canal-officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Power to contract for collection of canal-dues.

83. Any sum lawfully due under this Part either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a *patta* or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable :

Sum payable under this Part deemed to be rent.

Provided that the claim (if any) for rent in respect of such land shall have priority over any claim for arrears of water-rate so far as regards recovery of rent by the exercise of the power of distraint.

84. If any person distrains half or more than half of any crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an

Person who distrains may be called on to produce account,

¹See foot-note 1 on page 276, *ante*.

²See foot-note 5 on page 276, *ante*.

[Ben. Act III

(Part VII.—Of Water-rates.—Part VIII.—Of Jurisdiction.—
Sections 85-89.)

account showing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which has been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

Arrears of
water-rate
deemed
to be
demand.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collection of water-rate, and every sum due to such person on account of water-rate and certified by the canal-officer to be so due, shall also be held to be a demand ^{1*} * *

Sections
not
applying
to fines.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

PART VIII.

OF JURISDICTION.

Settle-
ment of
disputes
as to
mutual
rights
and liabi-
lities
of persons
interested
in village-
channel.

87. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter, and, after such inquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

Dispute
as to
shares
and
payments.

88. Whenever any dispute arises among joint owners of a village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the canal-officer or Collector, as provided in the last preceding section.

Order
passed by
Collector
and canal-
officer to
remain in
force until
set aside
by Civil
Court.

89. Any order passed by the Collector, under either of the two last preceding sections, and, subject to the provisions of section 91, any such order passed by a canal-officer, shall remain in force until set aside by the decree of a Civil Court, and may be executed by any canal-officer as if it were a decree of the Civil Court.

¹The reference to Ben. Act VII of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), is omitted.

of 1876.]

(Part VIII.—Of Jurisdiction.—Part IX.—Of Offences and Penalties.—Sections 90-93.)

90. All suits arising out of the exercise of the power of distraint for recovery of water-rates,

or out of any acts done under colour of the exercise of the said power of distraint,

or by person in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land irrigated.

Jurisdiction as to suits arising out of powers of distraint.

91. Every order passed by a canal-officer under Part V, Part VI, Part VII or Part VIII of this Act shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against ; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the Division and of the Board of Revenue, who may pass such order thereon as they may respectively think fit.

Appeal and supervision.

92. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure, ¹[1908] ; and every such inquiry shall be deemed a judicial proceeding.

Power to summon and examine witnesses.

Act V of 1908.

PART IX.

OF OFFENCES AND PENALTIES.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say :—

(1) damages, alters, enlarges or obstructs any canal or drainage-work ;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal or drainage-work, or by any means raises or lowers the level of the water in any canal or drainage-work ;

Offences under Act.

¹See foot-note 1 on page 281, ante.

[Ben. Act III**(Part IX.—Of Offences and Penalties.—Section 94.)**

- (3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;
- (4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;
- (5) destroys, defaces or moves any level-mark or water-gauge fixed by the authority of a public servant ;
- (6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work ;
- (7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom ;
- (8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment ;
- (9) violates any rule made under the Act, for breach whereof a penalty may be incurred,

Penalty.

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Act XLV
of 1860.

Further offences.**94. Whoever, without the authority of the canal-officer,—**

- (1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment ;
- (2) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any such embankment ;
- (3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer,

of 1876.]

(Part IX.—Of Offences and Penalties.—Sections 95-98.)

Act XLV
of 1860.

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding six months.

Penalty.

95. Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

Obstruction to be removed and damage repaired.

Ben. Act
III of
1913.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector ¹[under the procedure provided by the Bengal Public Demands Recovery Act, 1913, ²for the recovery of public demands.]

96. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view commits any of the following offences :—

Persons employed on canal may take offenders into custody.

(1) wilfully damages or obstructs any canal ;

(2) without proper authority interferes with the supply or flow of water in or from any canal or in any river or stream, so as to make dangerous or render less useful any canal.

97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Saving of prosecution under other laws.

Provided that no person shall be punished twice for the same offence.

98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such

Compensation to person injured.

¹These words and figure were substituted for the words and figures "as a demand under section 1 of the aforesaid Ben. Act VII of 1868" by sec. 3 and schedule II of the Amending Act, 1903 (I of 1903).

²The words and figure "the Bengal Public Demands Recovery Act, 1913," were substituted for the words and figure "the Public Demands Recovery Act, 1895" by sec. 2 and the the Third Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

[Ben. Act III]

(Part IX.—Of Offences and Penalties.—Part X.—Of Subsidiary Rules.—Section 99.)

fine may be paid by way of compensation to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

PART X.

OF SUBSIDIARY RULES.

Power to
make,
alter
and
cancel
rules.

99. The ¹[State Government] may, from time to time, make rules to regulate the following matters :—

- (a) the proceedings of any officer who under any provision of this Act, is required or empowered to take action in any matter ;
- (b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;
- (c) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done ;
- (d) the amount of any charge made under this Act ;
- (e) and generally to carry out the provisions of this Act.

The ¹[State Government] may, from time to time, alter or cancel any rules so made.

Publica-
tion of
rules;

Such rules, alterations and cancelment shall be published in the ²[*Official Gazette*] and shall thereupon have the force of law :

Provided that no rules shall be made by the ¹[State Government] under the powers conferred on ³[it] by this section until a draft of the same shall have been published in the ³[*Official Gazette*] for one month, after which time the ¹[State Government] may pass such rules as originally published, or with such alterations, additions and omissions as ⁴[it] may think fit.

¹See foot-note 1 on page 276, *ante*.

²See foot-note 4 on page 275, *ante*.

³See foot-note 2 on page 295, *ante*.

⁴See foot-note 4 on page 277, *ante*.

of 1876.]

(*Schedules A, B.*)

SCHEDULE A.

(*Repeal of Bengal Acts VIII of 1867 and VI of 1869.*)—*Rep. by sec. 4 and Schedule III of the Amending Act, 1903 (1 of 1903).*

SCHEDULE B.

(*See section 74.*)

APPLICATION FOR WATER.

No

Mauza.

Pargana.

Canal.

Village-channel.

Name of owner of village-channel.

Name of applicant.

I, the undersigned, hereby apply for water from the above-named village-channel for the fields and crops below detailed and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the ¹[State Government] under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rules issued under that Act :—

No. of field in revenue map.	Acreage of field.	Crop to be grown.

.....
Signature or mark of applicant.

Date.....

.....

¹*See foot-note 1 on page 276, ante.*

[Ben. Act III of 1876.]

*(Schedule C.)***SCHEDULE C.***(See section 75.)***PERMISSION TO TAKE WATER.**

No. Permit of village to take water from
 canal
 village-channel
 for the undermentioned fields and crops :—

No. of field.	Acreage of field.	Crops to be grown.	Water-rate dues.	Day of payment.

.....
Signature of Canal-officer.

Date.....

.....

.....

Bengal Act VII of 1876
(THE LAND REGISTRATION ACT, 1876)

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24. Entry of *mausa* under local division of *mausawar* register.
25. (*Repealed.*)
26. Note to be made on general register.
27. Note on general register of revenue-free lands.
28. Collector, after inquiry, may make change in register.
29. When Collector may order name of proprietor to be struck out of register.
30. Information to be supplied to Collector.
31. Penalties for not giving notice or furnishing information.
32. When register may be altered on order of Civil Court.
33. Lands held without payment of rent deemed to be part of certain estates.
34. Collector may include any lands in an estate.
35. Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.
36. Board to decide what lands to be included in each revenue-free property.
37. Collector may serve notice for inclusion of lands in revenue-free property.

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

38. *Proprietor and manager to register within specified time.*
39. *State Government may fix date before which proprietor and manager must apply for registration.*
40. *State Government may fix different dates in respect of different estates.*
41. *Publication of date fixed by State Government.*
42. Persons succeeding to proprietary right in, or management of, estates to give information within six months.
43. State Government may exempt proprietors from obligations imposed by Act.
44. Mortgagee may apply for registration.
45. Presentation of application.
46. Manager to specify extent of interest of each person for whom he manages.
47. Collector when to register applicant for registration as manager appointed by authority.
48. Notice to objectors.
49. Publication of notice.
50. Notice to transferor.
51. Effect of irregularity in publication or service of notice.
52. Inquiry by Collector.
53. Power to summon witnesses and compel production of documents.
- 53A Record of evidence in inquiries.
54. Payment of costs.
55. Dispute as to possession, succession or acquisition by transfer.
56. In cases of disputed possession, etc., Collector may appoint receiver.
57. Effect of Collector's order.
58. Procedure on reference under section 55.
59. Procedure on receipt of reference.
60. Judge may appoint curator.
61. Costs.

of 1876.]

SECTION,

- 62. Effect of summary decision of Court.
- 63. Court to certify its determination to Collector.
- 64. Collector to levy fees on transfers.
- 65. Penalty for omitting to comply with Act.
- 66. Fine may be levied notwithstanding appeal.
- 67. No penalty on person who applies *suo motu*.
- 68. Liabilities of proprietors and managers.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

- Opening of separate account of share of applicant under the Bengal Land-revenue Sales Act, 1859.
- Proprietor holding undivided interest in specific lands may apply for separate account.
- Sections 12, 13 and 14 of Act XI of 1859 applied.
- Application to close separate account.
- Separate account may be closed and another opened.
- Procedure in case of objection.

PART VI.

MISCELLANEOUS.

- 75. Collector to furnish extract from register.
- 76. Collector to furnish translation of extract.
- 77. Changes in names of proprietors, etc., and extent of interest to be notified on estate.
- 78. No person bound to pay rent to claimant not registered.
- 79. Indemnity to persons paying rent to registered proprietor.
- 80. Payment of sums payable by Collector to proprietors jointly.
- 81. Saving of written contracts and recovery from person receiving money.
- 82. Every amount due deemed to be a demand.
- 83. Collector may require proprietor to name estate.
- 84. Collector may delegate duties.
- 85. Appeal.
- 86. Exclusion of time in case of appeals.
- 87. State Government may vest officer with special appellate powers.
- 88. Board may make certain rules.
- 89. Saving clause.

Bengal Act VII of 1876

(THE LAND REGISTRATION ACT, 1876)¹

REPEALED IN PART	{ Ben. Act VII of 1880. Act I of 1903. Ben. Act II of 1906.
AMENDED	{ Ben. Act V of 1878. Ben. Act V of 1915. Ben. Act II of 1921. Ben. Act III of 1936. Ben. Act XVI of 1946.
REPEALED IN PART AND AMENDED.	{ E. B. & A. Act I of 1907. Ben. Act I of 1914. Ben. Act I of 1939. (a) The Government of India (Adaptation of Indian Laws) Order, 1937.
ADAPTED	(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(23rd August, 1876.)

An Act to provide for the registration of revenue-paying and revenue free lands, and of the proprietors and managers thereof.

WHEREAS it is expedient to make better provision for the preparation and maintenance of registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortgages of revenue-paying lands ;

Preamble.

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be called the Land Registration Act, 1876. [Commencement].—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

Short title.

2. [Regulations repealed].—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

¹Legislative Papers.—For Report of Select Committee, see the *Calcutta Gazette* of 1876, Pt. IV, page 57 ; and for Proceedings in Council, see *ibid*, Supplement, 1875, page 11 ; *ibid*, Supplement, pages 42, 135, 515 and 829.

Local Extent.—Since this Act contains no local extent clause, it must be taken to have been intended to extend to the whole of the former Province of Bengal.

(Part I.—Preliminary.—Section 3.)

Interpreta-
tion-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) “Civil court” means any Civil Court which is competent to hear and determine the matter with respect to which the words are used ;

(2) “estate” includes—

(a) any land subject to the payment of land-revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with ¹[the Government].

(b) any land which is entered on the revenue-roll as separately assessed with land-revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with ¹[the Government] for the amount of revenue so separately assessed upon it as a whole ;

(c) any land being the property of ¹[the Government] of which the Board shall have directed the separate entry on the general register hereinafter mentioned ²[or on any other register prescribed for the purpose by rule made under this Act] ;

(3) “extent of interest” means the share or interest in an estate or revenue-free property of which the person with respect to whom the words are used is in possession as proprietor or manager ;

3 *

(4) “local division” means a subdivision *pargana*, *thana*, police division or jurisdiction, or other division according to which the *mauzawar* register of the district is arranged ;

¹The words “the Crown” were first substituted for the word “Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “Government” was substituted for the word “Crown” by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were added for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 2(1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 2(1). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

³Clause (4) was omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1876.]

(Part 1.—Preliminary.—Section 3.)

- (6) “Manager” means every person who is appointed by the Collector, the Court of Wards or by any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot or lunatic, or on behalf of a religious or charitable foundation¹[or as a trustee or executor];
- ²(7) “*mauza*” means the area defined, surveyed and recorded as a distinct and separate *mauza* in—
- (a) the general land-revenue survey which has been made of the³[State]⁴ * or
- (b) any survey made⁵[by any Government] which may be adopted⁶[by the State Government] by notification in the⁷[*Official Gazette*], as defining *mauzas* for the purposes of this clause in any specified area; and, where a survey has not been⁸[so made or adopted by the State Government], such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a *mauza*;
- (8) “proprietor” means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof; and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector;

¹These words were added for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 2(2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 2(2). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²Clause (7) was substituted for the original clause (7), for Eastern Bengal by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 2(3). This Act was extended to Western Bengal by Ben. Act I of 1914, sec. 4, Sch. II.

³Substituted for the word “Province” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴The words “of Bengal” were omitted by para. 3 (1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵The words “by any Government” were substituted for the words “by the Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶The words “by the Provincial Government” were first inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁷These words were substituted for the words “Government Gazette” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸The words “so made or adopted by the Provincial Government” were first substituted for the words “made by, or under the authority of, the Government”, by para. 3 and Sch. IV, *ibid.* Thereafter the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

(Part I.—Preliminary.—Part II.—Of the Registers to be kept up by the Collector.—Sections 4—6.)

- (9) “recorded proprietor” means any proprietor whose name, and the character and extent of whose interest in an estate or revenue-free property, stand registered in any general register now existing or hereafter to be made under this Act ;
- (10) “revenue-free property” means any land not subject to the payment of land-revenue which is included under one entry in any part of the general register of revenue-free lands ;
- (11) “section” means a section of this Act ;
- ¹(12) “the Board” means the Board of Revenue for the ²[state] ;
- (13) “the Collector” means the Collector of the district to which a register relates ;
- (14) “the district” means the district to which a register relates.

PART II.

OF THE REGISTERS TO BE KEPT UP BY THE COLLECTOR.

Collector
to keep
registers.

4. The Collector of every district shall prepare and keep up the following registers :—

- A.—A general register of revenue-paying lands.
- B.—A general register of revenue-free lands.
- C.—A *mauzawar* register of all lands revenue-paying and revenue-free.
- D.—An intermediate register of changes affecting entries in the general and *mauzawar* registers.

Forms,
language,
character
and ar-
rangement
of registers.

5. The registers shall be written in such forms, languages and character, and shall be arranged in such manner not being inconsistent with the provisions of this Act, as the Board from time to time may direct for each district.

General
register of
revenue-
paying
lands.

6. The general register of revenue-paying lands shall consist of two parts :—

Part I.—Book of estates borne on the revenue-roll of the district.

¹Clause (12) was substituted for the original clause (12), by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the word “Province” by para. 4(1) of the Adaptation of Laws Order, 1950.

³The second paragraph of sec. 5 was repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16(a), and in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 16(a). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Sections 7, 8.)

Part II.—Book of lands situated in the district appertaining to estates borne on the revenue-rolls of other districts.

7. In Part I of the general register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the district, and the following particulars relating to every such estate :—

Part I of
general
register.

- (a) name of the estate ;
- (b) number of the estate on the revenue-roll of the district, and the annual amount of revenue for which it is liable ;
- (c) names and addresses of the proprietors, managers and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee ;
- (d) name of every local division in which any lands of the estate are situated, whether in the district or in any other district, with specification under each local division of—
 - (i) the number of *mauzas* containing such lands,
 - (ii) the name of each *mauza*,
 - (iii) the number which each *mauza* bears under the local division in the *mauzawar* register, and
 - (iv) the area of land appertaining to the estate which each *mauza* contains, if ascertained by survey or other authentic measurement ;

¹(e) reference to entries made in the intermediate register after the preparation of the general register.

8. In part II of the general register of revenue-paying lands shall be entered the name of every estate which comprises lands situated in the district but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate :—

Part II of
general
register.

- (a) name of the estate ;
- (b) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable, ²[and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district] ;

Clause (e) was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16(2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 16(2), respectively, in districts in respect of which any order is issued under any clause of sec. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. C, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²These words were repealed by sec. 16(3), *ibid.*, in the districts in respect of which any order is issued under clause (a) or clause (b) of sec. 19A of the present Act.

[Ben. Act VII]

(Part I.—Of the Registers to be kept up by the Collector.—
Sections 9, 10.)

- (c) names and addresses of the proprietors, managers or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee ;
- (d) name of every local division of the district to which the register relates, in which any lands of the estate are situated, with a specification under each local division of—
 - (i) the number of *mauzas* containing such lands,
 - (ii) the name of each *mauza*,
 - (iii) the number which each *mauza* bears under the local division in the *mauzawar* register of the district, and
 - (iv) the area of land appertaining to the estate which each *mauza* contains, if ascertained by survey or other authentic measurement ;
- ¹(e) reference to entries made in the intermediate register after the preparation of the general register.

General
register of
revenue-
free lands.

9. The general register of revenue-free lands shall consist of three parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste-lands and other lands not included in Part I or Part II of the general register of revenue-free lands.

Part I of
general
register of
revenue-
free lands.

10. In Part I of general register of revenue-free lands shall be entered,

all lands held under *badshahi hukami* and other *lakhiraj* grants which have been declared to be valid by competent authority,

all lands in which ²[the Government] has conferred a proprietary title free in perpetuity from any demand on account of land-revenue, in consideration of the payment of a capitalized sum, or for any other reason, and

¹Clause (e) of sec. 8 was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16(2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 16(2), respectively, in districts in respect of which any order is issued under any clause of sec. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²The words "the Crown" were first substituted for the words "the Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Section 11.)

any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this Part of such register.

Part I of such register shall, as far as possible, contain the following particulars in respect of each entry :—

- (a) name of the revenue-free property, with the character of the tenure, whether *jagir*, *altamgha*, *debottar*, *bishunpirit*, purchased revenue-free, redeemed or otherwise ;
- (b) date of the grant or title being conferred ;
- (c) nominal area granted ;
- (d) names of the grantor and original grantee ;
- (e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid ;
- (f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager ;
- (g) name of every local division in which any land appertaining to the property is situated, whether in the district or in any other district, with specification under each local division of—
 - (i) the number of *mauzas* containing such land,
 - (ii) the name of each *mauza*,
 - (iii) the number which each *mauza* bears under the local division in the *mauzawar* register, and
 - (iv) the area of land appertaining to the revenue-free property which the *mauza* contains if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement ;
- (h) reference to the entries in earlier registers relating to the property or any part thereof ;
- (i) reference to entries made in any intermediate register after the preparation of the general register.

11. In Part II of the general register of revenue-free lands shall be entered all lands which are occupied ¹[by the Government] or by any public body, for public purposes, and on account of which no land-revenue is demanded.

Part II of
general
register of
revenue-
free lands.

¹The words "by the Crown" were first substituted for the words "by the Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Part II.—Of the Registers to be kept up by the Collector.—
Sections 12, 13.)

It shall contain the following particulars :—

- (a) area of the land comprised in each entry ;
- (b) names of the local divisions and *mauzas* in which the lands are situated, with area in each *mauza* and a reference to the number under which each *mauza* is entered in the *mauzawar* register of the local division ;
- (c) name of the department of Government or of the public body by which the land is occupied ;
- (d) the purpose for which it is occupied ;
- (e) the date and particulars of the appropriation of the land to such purpose ;
- (f) reference to entries in the intermediate register made after the preparation of the general register.

Part III of
general
register of
revenue-
free lands.

12. In Part III of the general register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the general register) which are not assessed to land-revenue. It shall contain the following particulars :—

- (a) name and number of the lot, or other particulars identifying the property ;
- (b) area comprised in each entry ;
- (c) name of every local division and *mauza* in which lands of the property are situated, with area in each *mauza*, and a reference to the local division and number under which each *mauza* is entered under the local division on the *mauzawar* register ;
- (d) reference to entries in the intermediate register made after the preparation of the general register.

Board may
direct that
three last
sections
shall not
apply to
any
district.

13. If it shall appear to the Board that the circumstances of any district are such, ¹[or that, in consequence of the preparation of a record-of-rights, or for any other reason, the circumstances of any district or part of a district are so altered,] that it is not desirable or practicable to prepare ²[or re-write or maintain] the register of revenue-free lands in the manner described in the three last preceding sections,

the Board may direct that the said sections shall not apply to such district, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof :

¹These words were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 3(1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 3(1). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²These words were inserted, for Western Bengal, by sec. 3(2), *ibid.*

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Sections 14, 15.)

Provided that such rules shall require the registration of the name of one or more persons as liable for the discharge of the duties and obligations referred to in section 68 in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the ¹[State Government] and published in the ²[Official Gazette] and otherwise locally as the ¹[State Government] may order, shall, from such date as the ¹[State Government] may direct, have the same force as if they were included in this Act.

14. The *mauzawar* register shall be kept up for the purpose of showing, in a connected form, the *mauzas* situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each *mauza* consists.

Purpose of
mauzawar
register.

15. The *mauzawar* register shall be arranged and divided according to subdivisions, *parganas*, *thanas*, police-jurisdictions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of *mauzas* shall have a separate series of consecutive numbers ³[for each local division, and shall be so arranged as the Board may direct].

Mauzawar
register
to be
arranged
according
to local
divisions.

The *mauzawar* register shall contain the following particulars :—

- (a) name of the *mauza* ;
- (b) total area of *mauza*, if ascertained by survey or other authentic measurement, with a reference to the authority for the entry ;
- (c) name of every estate or revenue-free property to which any of the lands of the *mauza* appertain, with a reference to the entry of each on the general register, and a specification of the area of land in the *mauza* which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry ;

¹The words "Provincial Government" were first substituted for the words "Lieutenant Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were substituted for the words "and a separate alphabetical arrangement for each local division," for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 4, and for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 4. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

(Part II.—Of the Registers to be kept up by the Collector.—
Sections 16—18.)

(d) gross rental of the area of land in the *mauza* which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry ;

(e) reference to entries made in intermediate registers after the preparation of the *mauzawar* register.

Inter-
mediate
registers.

16. Intermediate registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the general and *mauzawar* registers, so that by a reference to them, in connection with those registers, correct information up to date on the points recorded may be obtained at any time ; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the general and *mauzawar* registers.

Division
of inter-
mediate
register.

17. The intermediate register shall consist of two parts, as follows :—

Part I.—Book of changes affecting entries relating to revenue-paying lands.

Part II.—Book of changes affecting entries relating to revenue-free lands.

Particulars
of Part I of
inter-
mediate
register.

18. In Part I of the intermediate register shall be recorded, in a convenient form, all changes in the names of proprietors, managers and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager and mortgagee, and such other changes affecting any entry standing in the general register of revenue-paying lands, or any entry in the *mauzawar* register relating to revenue-paying lands as cannot conveniently be entered against such entry in the general or the *mauzawar* register. It shall contain the following particulars :—

(a) name of the estate affected, with references to ¹[the number it bears on the general register of revenue-paying lands,] the number it bears on the revenue-roll, and the amount of revenue for which it is liable ;

(b) references to previous entries in the intermediate register relating to the estate ;

(c) particulars of the change, with a reference to the authority under which it is made ;

¹These words were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16 (3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 16 (3) respectively, in districts in respect of which any order is issued under clause (a) or clause (b) of sec. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4 Sch. II.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Sections 19, 19A.)

- (d) the numbers borne by the entries ¹[in each Part of the general register of revenue-paying lands,] and under each local division in the *mauzawar* register which are affected by the change here recorded.

Particulars
of Part II
of inter-
mediate
register.

19. In Part II of the intermediate register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the general register of revenue-free lands, or any entry relating to revenue-free lands in the *mauzawar* register, as cannot conveniently be entered against such entry in the general or the *mauzawar* register. It shall contain the following particulars :—

- (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the register of revenue-free lands ;
- (b) reference to previous entries in the intermediate register relating to the property ;
- (c) particulars of the change, with a reference to the authority under which it is made ;
- (d) the numbers borne by the entries in the general register and under each local division in the *mauzawar* register which are affected by the change here recorded.

Power of
Board to
issue orders
as to
record of
matters
required
to be
entered in
Register
A or
Part I of
Register D.

²19A. Notwithstanding anything contained in other sections of this Act, the Board may from time to time, by written order, direct, in respect of all or any districts,—

- (a) that all matters required by this Act to be entered in the general register of revenue-paying lands and Part I of the intermediate register, respectively, shall be entered in a combined register to be prescribed by the Board, instead of the aforesaid registers, or
- (b) that all matters required by this Act to be entered in the general register of revenue-paying lands shall be entered in Part I of the intermediate register instead of in the general register of revenue-paying lands, or
- (c) that all matters required by this Act to be entered in Part I of the intermediate register shall be entered in

¹These words were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16(3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 16(3), respectively, in districts in respect of which any order is issued under clause (a) or clause (b) of sec. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²Section 19A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 5. This Act was extended to Western Bengal by Ben. Act I of 1914, sec 4, Sch. II.

[Ben. Act VII]

(Part II.—Of the Registers to be kept up by the Collector.—
Part III.—Of the Preparation and Maintenance of the
Registers.—Sections 19B—21.)

the general register of revenue-paying lands instead
of in the intermediate register.

Explanation.—An order issued under this section may merely direct the entry of matters in some register other than that prescribed for the purpose by other sections of the Act. It may not prohibit the record of matters which are required by the Act to be recorded.

Act to
be read
subject to
orders so
issued.

¹19B. All provisions of this Act (other than section 19A) as to the maintenance of registers, as to the entry of matters in any particular register or in any particular Part of any register, and as to other matters relating in registers, shall be read subject to any orders issued by the Board under section 19A and for the time being in force.

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

Old
registers
to be in
force
till new
registers
prepared.

20. Until the registers by this Act directed to be prepared are so prepared the existing registers now kept up in the office of every Collector shall be deemed to be the registers kept up under this Act, that is to say,

the existing general register of revenue-paying estates shall be deemed to be the general register of revenue-paying lands ;

the existing *pargana* register (Part II) of revenue-free lands shall be deemed to be the general register of revenue-free lands and the *mauzawar* register in respect of revenue-free lands ;

the existing *pargana* register (Part I) of revenue-paying lands shall be deemed to be the *mauzawar* register in respect of revenue-paying lands ;

the existing register of intermediate mutations shall be deemed to be the intermediate register of changes affecting entries in the general and *mauzawar* registers ;

and all the provisions of this Act shall, as far as possible, be deemed to be applicable to such registers and to the registration therein of the names and interests of proprietors, managers and mortgagees.

How
registers
to be
prepared.

21. The first general registers and the first *mauzawar* register under this Act shall be prepared for each district at such time as the Board may direct from the entries in the existing registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

¹Section 19B was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec 5, and for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec 5. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.—Sections 22—25.)

22. The Board may order new registers to be prepared whenever it may think fit, and such registers shall be prepared from the registers existing at the time of such order, and from the entries of subsequent changes in the intermediate registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous registers shall be made as subsequent changes have rendered necessary, and the authority for every change shall be expressly referred to.

Board may order new registers to be prepared.

23. Whenever, after the preparation of the general registers, it may be necessary to bring any estate or revenue-free property on to any Part of such registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such Part under a new number in continuation of the last number already borne on such Part;

Entry of estate on Part of general register.

1*

24. Whenever, after the preparation of the *mauzawar* register, it shall be necessary to enter any *mauza* under any local division of such register under which it is not already borne, such *mauza* shall be at once brought under the proper local division with a new number in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the *mauzawar* register in which such estate or property would have appeared according to [the arrangement directed under section 15].

Entry of *mauza* under local division of *mauzawar* register.

25. [Order of entries under two preceding sections.]—Rep. in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907).

*The words and figure "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5" were repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 16(b), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 16(b), and are omitted. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

*These words were substituted for the words "the alphabetical arrangement mentioned in section 15", for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 6, and for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 6. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

(Part III.—Of the Preparation and Maintenance of the Registers.—Sections 26, 27.)

Note to
be made
on general
register.

26. After the general register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such register against the estate affected—

of every alteration which may be ordered by competent authority in the amount of revenue assessed on any estate ;

of every partition of an estate into two or more estates ;

of every change involving the removal of an estate from the part of the register on which it is borne ;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register ;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the register may be recorded in Part I of the intermediate register, as provided in section 18, and a reference shall be made in the general register against the estate affected to every entry which may be made in the intermediate registers recording any such change.

Note on
general
register of
revenue-
free lands.

27. After the general register of revenue-free lands shall have been prepared, a note shall from time to time be made on such register against the property affected—

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority ;

of every partition of a revenue-free property into two or more properties ;

of every change involving the removal of a revenue-free property from the part of the register on which it is borne ;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the register may be recorded in Part II of the intermediate register as provided in section 19.

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.—Sections 28—30.)

28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his registers, and renders necessary any alteration therein, the Collector, after making such inquiry as may be necessary, shall make such alteration :

Collector, after inquiry, may make change in register.

¹Provided that, except when changes are made in the general register of revenue-paying lands or in the *mauzawár* register in order to bring the entries in these registers into accordance with a record-of-rights finally published under the provisions of the Bengal Tenancy Act, 1885, notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property, and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected ; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

VIII of
1885.

²[The notice required under this section shall be served in the manner prescribed by section 50.]

29. Whenever it shall appear to the Collector, in the course of an inquiry made in respect of an application under section 38 or section 42 or otherwise that any person whose name is recorded in the general register as proprietor or manager, or joint-proprietor or joint-manager, of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the register,

When Collector may order name of proprietor to be struck out of register.

the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property and, if required, may grant him a certificate to that effect.

30. To enable the Collector more effectually to maintain his registers,—

Information to be supplied to Collector.

- (a) whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district

¹This proviso was substituted for the existing proviso by sec. 2 of the Bengal Land Registration (Amendment) Act, 1935 (Ben. Act III of 1936).

²These words were added for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 7. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

(Part I I I.—Of the Preparation and Maintenance of the Registers.—Section 30.)

from the revenue-roll of which the estate is to be transferred shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made ;

- (b) whenever the Collector of any district shall make an entry, or any alteration of any entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district ;

1*

- (c) every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector,

to furnish any information required by the Collector for the ²[entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder], or

to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section 50, requiring the production of such information before a date mentioned in such notice.

- ³(d) whenever any minor, disqualified proprietor or other beneficiary, whose name has been recorded in any register along with that of a guardian or manager,

¹Clause (c) was repealed, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 16(d), and is omitted. This Act was extended to Western Bengal by Ben. Act I of 1914, sec. 4, Sch. II.

²These words were substituted for the words and figures "purpose of preparing, making or correcting any entry of the particulars specified in sections 7, 8, 10, 11, 12 or 15", for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 8 (1). This Act was extended to Western Bengal by Ben. Act I of 1914, sec. 4, Sch. II.

³Clause (d) was added for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 8(2). This Act was extended to Western Bengal by Ben. Act I of 1914, sec. 4, Sch. II.

of 1876.]

*(Part III.—Of the Preparation and Maintenance of the Registers.—
Sections 31, 32.)*

lawfully assumes direct charge of his estate, he shall within six months give notice to the Collector and apply for correction of the register by removal therefrom of the name of such guardian or manager.

31. Whoever, being bound ¹ * * * under clause (d) of ²[section 30] to furnish any information required by the Collector, ³[or under clause (e) of the said section to give notice of his having assumed direct charge of an estate], shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information,

Penalties for not giving notice or furnishing information.

shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission ;

and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information that such further daily fine will be imposed.

such notice shall be served in the manner prescribed by section 50, and the date fixed by such notice shall not be less than 15 days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the registers of the Collector and the Collector shall register such transfer accordingly.

When register may be altered on order of Civil Court.

¹The words "by clause (e) of the last preceding section to give notice to the Collector of the establishment of any new village, or" which were repealed by Sch. IV of the Bengal Laws Act, 1914 (Ben. Act I of 1914), are omitted.

²This word and figures were substituted for the words "the said section" by Sch. III of the Bengal Laws Act, 1914 (Ben. Act I of 1914).

³These words were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec 9, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 9. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act. I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch II.

*(Part III.—Of the Preparation and Maintenance of the Registers.
—Sections 33—35.)*

Lands held without payment of rent deemed to be part of certain estates.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the general register of revenue-free lands as prescribed by sections 10, 11 or 12, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included ; and, if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

Collector may include any lands in an estate.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing general register should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to be served in the manner prescribed by section 50, and a general notice to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

35. Whenever it shall appear to the Collector that any land which is not entered on the general register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section 50, calling on the person in possession of such land as proprietor or manager to show cause why such land should not be so registered as a revenue-free property ;

and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further inquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the general register as a revenue-free property ;

and by a notice served as prescribed in section 50, as well as by general notice published as prescribed in section 49, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager ;

and thereupon every such proprietor and manager shall be deemed, for the purposes of section 68, to be a person who is required by this Act to apply for the registration of his name ; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person :

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.
—Part IV.—Of the Registration and Mutation of Names.—
Sections 36—38.)

Provided that no such proprietor or manager shall be liable to any fine under section 65 until after the expiration of three months from the date on which the last-mentioned notice shall have been served :

Provided, also, that no land shall be entered as a revenue-free property in Part I of the general register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the register as forming one revenue-free property shall be divided and entered on the register as forming two or more such properties ; and may similarly direct that revenue-free lands which are borne on the register as forming two or more revenue-free properties shall be united and entered as forming one revenue-free property.

Board to decide what lands to be included in each revenue-free property.

The Board may also direct that any lands which are improperly borne upon the general register of revenue-free lands shall be removed from such register, or shall be omitted from any new register of such lands which may be prepared.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing general register should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section 50, and a general notice, to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

Collector may serve notice for inclusion of lands in revenue-free property.

At the expiration of the said month or of such period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

¹38. Every proprietor of an estate or revenue-free property or of any interest therein, respectively, being in possession of such estate, property, or interest at the commencement of this Act,²

Proprietor and manager to register within specified time.

¹Sections 38 to 40 are obsolete.

²i.e., the 28th August, 1876.

[Ben. Act VII

(Part IV.—Of the Registration and Mutation of Names.—
Sections 39, 40.)

every joint proprietor of an estate or revenue-free property being in charge of such estate or property or of any interest therein, respectively, on behalf of the other proprietors thereof, at the commencement of this Act,¹

and every person being manager of an estate or revenue-free property, or of any interest therein, respectively, on behalf of a proprietor thereof, at the commencement of this Act,¹

shall, if his name and the character and extent of his interest have not already been registered, make application, in the manner hereinafter provided, for the registration of his name and of the character and extent of his interest as such proprietor or manager to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application within such time as the ²[State Government] may fix as hereinafter provided.

State Government may fix date before which proprietor and manager must apply for registration.

³39. The ²[State Government] shall, within six months from the commencement of this Act,¹ fix for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein, respectively, at the commencement of this Act,¹ shall be required to apply for registration of their names and of the character and extent of their interests, under the last preceding section; and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

State Government may fix different dates in respect of different estates.

³40. The ²[State Government] may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free properties, or in respect of different classes of estates and revenue-free properties, or in respect of different portions of the district :

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

¹i. e., the 28rd August, 1876.

²These words were substituted for the words "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Sections 38 to 41 are obsolete.

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.—
Sections 41—43).

¹41. Every date fixed by the ²[State Government] as provided in the two last preceding sections shall be published by a notice in the ³[Official Gazette] ;

Publication of date fixed by State Government.

and also by notices to be posted up

at the Court or office of the Judge, the Magistrate and the Collector of the district, in respect of which such date is fixed ;

at the Court or office of every Munsif, Sub-divisional Officer and Sub-Registrar of Assurances in such district ;

and at every police-station in such district ;

and by proclamation to be made by beat of drum at the headquarters of such district, and in every place in which a Sub-divisional office is situated, and in such other places as the ⁴[State Government] may direct.

The officer in charge of every Court, office and police-station at which a notice is required to be posted up under this section shall certify to the Collector the date on which the notice was so posted up at his Court, office or police-station ; and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

42. Every person succeeding, after the commencement of this Act,⁵ to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift or otherwise ;

Person succeeding to proprietary right in, or management of, estates to give information within six months.

every joint proprietor of an estate or revenue-free property assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof ;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner herein-after provided to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name, and of the character and extent of his interest as such proprietor or manager.

43. Notwithstanding anything contained in section 38 or the last preceding section, the ⁶[State Government] may in any district exempt proprietors and managers of all or any estates

State Government may exempt proprietors from obligations imposed by Act.

¹Sections 38 to 41 are obsolete.

²See foot-note 2 on page 328, ante.

³These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937,

⁴i.e., the 23rd August, 1876.

*(Part IV.—Of the Registration and Mutation of Names.—
Sections 44—48.)*

which are liable to pay less than twenty rupees of land revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

Mortgagee
may
apply for
registra-
tion.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee, and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

Presenta-
tion of
applica-
tion.

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

Manager
to specify
extent
of interest
of each
person for
whom he
manages.

46. If the applicant under section 38 or section 42 is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge, or on behalf of whom he is manager, and the character and extent of the interest of every such person.

Collector
when to
register
applicant
for
registra-
tion as
manager
appointed
by
authority.

47. If the application under section 38 or section 42 be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards, or by any Civil or Criminal Court, the Collector shall register the name of the applicant on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

Notice to
objectors.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further inquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

of 1876.]

*(Part IV.—Of the Registration and Mutation of Names.—
Sections 49—52.)*

49. Such notice shall be published by affixing a copy of the same on or at all the following places :—

Publication
of notice.

- (a) the *zamindari cutcherry* (if any) of the estate or other place at which the rents are ordinarily received ;
- (b) Some conspicuous place in at least one village appertaining to the estate to which, the application relates, and if the estate comprises lands situated in more than one local division, then in at least one village in each local division containing such lands ;
- (c) the office or Court of every Collector, Sub-divisional Officer, Judge and *Munsif* within whose jurisdiction, and every police-station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family ; or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

Notice to
transferor.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

Effect of
irregularity
in publica-
tion or
service of
notice.

52. On the day fixed in the notice issued under section 48, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further inquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of, the estate, revenue-free property, or interest therein, in respect of which registration is applied for ;

Inquiry by
Collector.

and if it appears to the Collector that the possession exists,

*(Part IV.-Of the Registration and Mutation of Names.—
Sections 53, 53A.)*

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer,

but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper registers as proprietor or manager of the said estate, revenue-free property or interest therein :

Provided that any person to whom any proprietary right in an estate has been mortgaged may be registered as mortgagee, whether he be in actual possession or otherwise.

Power to
summon
witnesses
and compel
production
of docu-
ments.

53. For the purpose of the inquiry mentioned in the last preceding section, and of every inquiry held under this Act, ¹[and subject to the provisions of ²sections 132 and 133 of the Code of Civil Procedure, 1908,] the Collector may summon and enforce the attendance of witnesses ³[and any applicant or his agent] and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided ⁴[in respect of witnesses] by the Code of Civil Procedure, ⁵[1908.]

Act V of
1908.

Record of
evidence in
inquiries.

⁶53A. The evidence of every person examined by the Collector in any inquiry from which an appeal lies under this Act shall be recorded in the same manner as is provided in the case of a Civil Court by the Court of Civil Procedure, ⁵[1908.]

¹These words were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 10(a). This Act was extended to Western Bengal by Ben. Act I of 1914, sec. 4, Sch. II.

²The words and figures "sections 132 and 133 of the Code of Civil Procedure, 1908," were substituted for the words and figures "sections 640 and 641 of the Code of Civil Procedure," by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³These words were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 10(a), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 10(b). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

⁴These words were substituted for the words "in the case of a Civil Court," for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 10(b), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 10(c). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

⁵This figure was inserted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶Section 53A was inserted for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 11, and for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 11. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

of 1876.]

*(Part IV.—Of the Registration and Mutation of Names.—
Sections 54—57.)*

54. All costs of any inquiry or proceeding held before the Collector under this Act shall, except as provided in section 50, be payable by the parties concerned ; and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

Payment
of costs.

55. ¹[If the applicant's possession of, succession to, or acquisition by transfer of, the extent of interest in respect of which he has applied to be registered is disputed by, or on behalf of, any person making a conflicting claim in respect thereof, and if it is not proved to the satisfaction of the Collector that any person is in possession of the interest in dispute, the Collector shall determine summarily the right to possession of the same, and shall deliver possession accordingly, and shall make the necessary entry in the registers ;]

Dispute as
to pos-
session,
succession
or acqui-
sition by
transfer.

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided :

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference, as hereinafter provided, to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

56. In any case of disputed possession of, succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government ; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or, under the order of a Civil Court, in respect of the extent of interest in dispute.

In cases of
disputed
possession,
etc., Col-
lector
may
appoint
receiver.

57. Every order of a Collector passed under the first clause of section 55 shall be of the same force and effect as an order by the Judge under ²[section 194 of the Indian Succession Act, 1925,] determining summarily the right to possession and delivering possession accordingly ;

Effect of
Collector's
order.

XXXIX of
1925.

¹This clause was substituted for the original clause by the Bengal Land Registration (Amendment) Act, 1878 (Ben. Act V of 1878).

These words and figures were substituted for the words, figures and brackets "section 4 of Act XIX of 1841 (an Act for the protection of movable and immovable property against wrongful possession in cases of succession)," by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

*(Part IV.—Of the Registration and Mutation of Names.—
Sections 58—61.)*

and no proceedings shall be taken by any Civil court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

Procedure
on refer-
ence
under
section
55.

58. In making a reference to the Civil Court under section 55, the Collector shall state, for the information of the said Court, in writing under his hand,—

- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the general register and (if an estate) on the revenue-roll of the district ;
- (2) the names of all persons who now stand registered on the general register as proprietors, managers or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered ;
- (3) the name of the applicant for registry ;
- (4) the character and extent of the interest in dispute ;
- (5) the circumstances of the case, as far as they are before the Collector, and the reasons which have led him to make the reference.

Procedure
on receipt
of refer-
ence.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter or may transfer the matter for determination to any other competent Civil Court in the district.

The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard ; and, after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

Judge
may
appoint
curator.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in ¹[sections 195 the 196 and sections 198 to 204 of the Indian Succession Act, 1925.]

XXXIX
of 1925.

Costs.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the inquiry and proceedings :

Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

¹These words and figures were substituted for the words and figures "sections 5 to 18 (both inclusive) of Act X1X of 1841" by sec. 2 and the First Schedule of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939.).

of 1876.]

(Part IV.—Of the Registration and Mutation of Names:—
Sections 62—64.)

62. The summary decision of the Court under section 59 shall have no other effect than that of settling the actual possession ; but for this purpose it shall be final, not subject to any appeal or order for review.

Effect of
summary
decision
of Court.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper registers.

Court to
certify its
deter-
mination
to Col-
lector.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

Collector
to levy
fees on
transfers.

(1) in the case of revenue-paying lands, one quarter or four annas *per centum* on the annual revenue payable to Government from the extent of interest transferred ;

(2) in the case of revenue-free lands, two-and-a-half *per centum* on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered ;

¹[(3) in the case of a fee-simple waste-land lot which is revenue-free, and for which no rents are received or receivable, two-and-a-half *per centum* on one-fifteenth part of the value, such value being taken to be—

(a) in the case of a transfer by sale, the purchase-money, and

(b) in any other case, the value determined by the Collector ;]

Provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

²Provided also that the ³[Commissioner of the Division] may, by general or special order, remit the payment of fees payable for any transfer.

Such fees shall be levied from the person in whose favour the transfer is registered.

¹Clause (3) was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 12(1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 12(1).

The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

²This proviso was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 12(2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 12(2).

The former Act has been repealed by the Bengal Laws Act, 1911 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

³These words were substituted for the word "Board" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

*(Part IV.—Of the Registration and Mutation of Names.—
Sections 65—67.)*

All fees levied under this section shall be carried to the account¹[of the State Government].

Penalty
for
omitting
to comply
with Act.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section 50, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

Fine may
be levied
notwith-
standing
appeal.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

No pen-
alty on
person
who
applies
suo motu.

67. Notwithstanding anything contained in section 65, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the ²[State Government] under section 39 or 40,

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section 42,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name and of the character and extent of his interest.

¹The words "of the Provincial Government" were first substituted for the words "of Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²See foot-note 2 on page 328, *ante*.

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.—
Part V.—Of the Opening of Separate Accounts in respect of
Shares.—Sections 68—70.)

Liabilities
of proprie-
tors and
managers.

68. Save as is provided in ¹[section 45 of the Code of Criminal Procedure, 1898,] all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are, by any law for the time being in force, imposed upon the proprietors of such estate or property ;

Act. V of
1898.

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration, respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

Opening
of separate
account
of share
of appli-
cant
under the
Bengal
Land-
revenue
Sales Act,
1859.

69. Notwithstanding anything contained in ²[the Bengal Land-revenue Sales Act, 1859,] from the commencement of this Act³ no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

XI of
1859.

Proprietor
holding
undivided
interest
in specific
lands may
apply for
separate
account.

70. When a proprietor of a joint estate, who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect.

The application must contain a specification of the land in which he holds such undivided interest, and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest.

¹These words and figures were substituted for the words and figure "section 90 of the Code of Criminal Procedure," by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words and figures were substituted for the words, figures and brackets "Act XI of 1859 (an Act to improve the law relating to sales of land, etc.)," by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³i. e., the 23rd August, 1876.

(Part V.—Of the Opening of Separate Accounts in respect of Shares.—Section 71.)

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of ¹[the Bengal Land-revenue Sales Act, 1859].

XI of
1859.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

²[Notwithstanding anything hereinbefore contained, no application under this section or under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859, shall be received unless it is accompanied by a fee of two rupees.]

³[and no separate account shall be opened on such application until an additional fee at the rate mentioned below is paid by the applicant, namely :—

for a separate account for which the
land-revenue payable does not
exceed ten rupees... four rupees,

for a separate account for which the
land-revenue payable exceeds
ten rupees but does not exceed
fifty rupees ... ten rupees,

for a separate account for which the
land-revenue payable exceeds
fifty rupees but does not exceed
one hundred rupees. ... fifteen rupees,

for a separate account for which the
land revenue payable exceeds
one hundred rupees ... twenty rupees.]

Sections
12, 13
and 14 of
Act XI
of 1859
applied.

71. Section 12 of ⁴[the Bengal Land-revenue Sales Act, 1859], shall apply to every application made under the last preceding section ; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of ¹[the Bengal Land-revenue Sales Act, 1859].

¹Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for "Act XI of 1859."

²This paragraph was added to section 70, for West Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 13, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), sec. 13. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

³These words within square brackets were added by sec. 2 of the Bengal Land Registration (Amendment) Act, 1921 (Ben. Act II of 1921).

⁴Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for "the said Act XI of 1859."

of 1876.]

(Part V.—Of the Opening of separate Accounts in respect of Shares.—Sectino 72.)

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of ¹[the Bengal Land-revenue Sales Act, 1859.] or under section 70, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers,

Application to close separate account.

any proprietor or manager whose name is borne on the general register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application,

setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers,

and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate,

and praying that the separate account standing open in respect of such share shall be closed,

and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of ²[the Bengal Land-revenue Sales Act, 1859] for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas shares being kept jointly in the names of the remaining proprietors C, D, and E.

In course of time X has inherited A's 4 annas share, and, also C's interest in the 7 annas share which amounted to 3 annas : X has also acquired by purchase 2 annas out of B's 5 annas share so that the interests in the estate are now distributed as follows :—

X	...	...	...	9 annas
B	...	...	...	3 ..
D & E	...	...	...	4 ..

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share and also the separate account which is open in respect of B's 5 annas share, but as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate ;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

¹Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for "the said Act XI of 1859."

²Substituted, *ibid* for "Act XI of 1859."

(Part V.—Of the Opening of Separate Accounts in respect of Shares.—Sections 73—74A.)

Separate account may be closed and another opened.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of ¹[the Bengal Land-revenue Sales Act, 1859 ;] and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close separate account which then stands open, and shall open a separate account with the applicant as required by him under section 10 or section 11 of ¹[the Bengal Land-revenue Sales Act, 1859] ; or under section 70, as the case may be.

XI of 1859.

Procedure in case of objection.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate, or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate) object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Power of Collector to close a separate account otherwise than upon application.

*74A. Notwithstanding anything contained in the foregoing sections, if the Collector becomes aware, otherwise than after receipt of an application under section 72, that any separate account opened under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859, or under section 70 or section 72 of this Act, in respect of any estate does not represent existing facts, he may, after service of a notice on the recorded proprietor in the manner prescribed by section 50, and after hearing any objection which may be preferred, close the account.

¹Substituted by sec. 2 and the First sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946, for "Act XI of 1859."

²Section 74A was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 14, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 14. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec 4, Sch. II.

of 1876.]

(Part VI.—Miscellaneous.—Sections 75—78.)

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

Collector to furnish extract from register.

76. If in any district any register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

Collector to furnish translation of extract.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every Subdivisional Officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated and at such places as he may think fit on the estate or property ;

Changes in names of proprietors, etc., and extent of interest to be notified on estate.

and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property ¹[who is] concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the general register on the date of the issue of the notice.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act ;

No person bound to pay rent to claimant not registered.

¹This words were inserted in section 77, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 15, and for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 15. The former Act has been repealed by the Bengal Laws Act, 1914 (Bon. Act, I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

(Part VI.—Miscellaneous.—Sections 79—83.)

1* * * * *

Indemnity
to persons
paying
rent to
registered
proprietor.

79. The receipt of any proprietor, manager or mortgagee whose name and the extent of whose interest is registered under this Act shall afford full indemnity to any person paying rent to such proprietor, manager or mortgagee.

Payment
of sums
payable
by Col-
lector to
proprietors
jointly.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, ²[1894]), the Collector may pay to any one or more recorded proprietors or managers thereof respectively such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

I of 1894.

Saving of
written
contracts
and reco-
very from
person
receiving
money.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

Every
amount
due
deemed to
be a
demand.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand^{3***}.

Collector
may
require
proprietor
to name
estate.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector may name such estate or property.

⁴[The notice required under this section shall be served in the manner prescribed in section 50.]

¹The second paragraph was omitted by sec. 8 of the Bengal Land Registration (Amendment) Act, 1935 (Ben. Act III of 1936).

²This figure was substituted for the figure "1870" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³The reference to the Bengal Land-revenue Sales Act, 1868 (Ben. Act VII of 1868), was repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880), and is omitted.

⁴These words were added to sec. 83, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act II of 1906), sec. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act I of 1907), sec. 7. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, sec. 4, Sch. II.

of 1876.]

(Part VI.—Miscellaneous.—Sections 84—86.)

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector or Sub-Deputy Collector, the performance of any duty, and the exercise of any function, which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals,

Collector may delegate duties.

and any Assistant, Deputy or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

85. Every order passed under this Act by any revenue-officer below the rank of the Collector of the district (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by ¹[the State Government] with special appellate powers in this behalf,

Appeal.

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against,

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the district, or by any officer especially vested with appellate powers as aforesaid being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against ;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against ;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner ;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same shall be excluded.

Exclusion of time in case of appeals.

¹The words "the Provincial Government" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

[Ben. Act VII of 1876.]

(Part VI.—Miscellaneous.—Sections 87—89.)

State Government may vest officer with special appellate powers.

87. The ¹[State Government] may from time to time vest any officer other than the Collector of the district with special appellate powers under this Act ; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.

Board may make certain rules.

88. Within four months of the date², on which this Act comes into force the Board shall make general rules, consistent with this Act, to regulate—

- the form in which registers under this Act are to be kept ;
- the procedure as to the presentation, admission and verification of applications for registration under Part IV, and as to inquiries under section 52,
- and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

Saving clause.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to—

- (a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immoveable property to which he may deem himself entitled ;
- (b) render the entry of any land in the registers under this Act as revenue-free and admission on the part of ³[the Government] of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free ;
- (c) affect the rights of ⁴[the Government] or of any person in respect of any immoveable property or of any interest, except as otherwise expressly provided herein.

SCHEDULE OF REGULATIONS REPEALED.

Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903).

¹ See foot-note 2 on page 328, *ante*.

² *i.e.*, the 23rd August, 1876.

³ The words "the Crown" were first substituted for the words "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁴ The words "the Crown" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4 (1) of the Adaptation of Laws Order, 1950.

Bengal Act II of 1879

[THE PURI LODGING-HOUSE (EXTENSION) ACT, 1879]¹

SHORT TITLE GIVEN	Act I of 1903.
REPEALED IN PART	Act I of 1903.
	Ben. Act III of 1908.
AMENDED	Ben. Act I of 1884.
	(a) The Government of India. (Adaptation of Indian Laws) Order, 1937.
ADAPTED	(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
	(c) The Adaptation of Laws Order, 1950.

(2nd April, 1879.)

Ben. Act
IV of
1871.

An Act to amend and extend the Puri Lodging-House Act, 1871.

WHEREAS it is expedient to amend Bengal Act No. IV of 1871, and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act * * * * *. Preamble.

It is enacted as follows :—

1. [Commencement].—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

2. [Section 22 as substituted for section 22 in Ben. Act IV of 1871, by this section has been repealed by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1879, Pt. IV, page 4 ; for Report of Select Committee, see *ibid*, page 17 ; and for Proceedings in Council, see *ibid*, 1879, Supplement, pages 6, 28 and 250.

²The words and figures "to places other than those specified in section 39 of the said Act," were repealed by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

[Ben. Act II of 1879.]

(Section 3.)

State
Government may
extend
Puri
Lodging-
house Act.

13. The ²[State Government of West Bengal, Bihar or Orissa] may from time to time, by notification in the ³[*Official Gazette*], extend Bengal Act No. IV of 1871, as amended by this

43. The ²[State Government of West Bengal, Bihar or Orissa] may from time to time, by notification in the ³[*Official Gazette*], extend Bengal Act No. IV of 1871, as amended by this

State
Government may
extend
Puri
Lodging-
house Act.

Pages 345-346—

Strike out the Puri Lodging-house (Extension) Act, 1879 (Ben. Act II of 1879) and *insert* the following note, *read leading* namely :—

[Repealed by West Ben. Act XI of 1964, sub-section (1) of section 3.]

[No. 1, dated the 1st January, 1969.]

following modifications :—

** * *

in lieu of the word "Puri" in sections 2, 3, 7⁵ * * *
*, shall be substituted the name of the place or places mentioned in the notification ;

following modifications :—

⁶*in section 7, after the word "each" the words "day or" shall be inserted ;*

in lieu of the word "Puri" in sections 2, 3, 7 and *Schedule B*, shall be substituted the name of the place or places mentioned in the notification ;

in lieu of the words "the rate of 8 annas," in section 8, shall be substituted the words "a rate not exceeding one rupee ;

in lieu of the last five words in section 14 shall be substituted the words "in the character of the vernacular of the district."

¹Section 3 is in force in this form in Western Bengal—See foot-note under "Local Extent" on page 175, *ante*.

²The words "Provincial Government of West Bengal, Bihar or Orissa" were first substituted for the words "Provincial Government of Bengal" by para. 3 (1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

³These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴Section 8 is in force in this form in Eastern Bengal—See foot-note under "Local Extent" on page 175, *ante*.

The differences in section 3 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁵Portions of sec. 3 are omitted as having been repealed, in Western Bengal, by sec. 16 of the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act III of 1908).

⁶This clause in italics was inserted by sec. 2 of the Puri Lodging-house (Extension) Act, 1884 (Ben. Act I of 1884).

Bengal Act VI of 1879

(THE DARJEELING STEAM TRAMWAY ACT).¹

REPEALED IN PART

Act I of 1903.

ADAPTED

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

(4th June, 1879).

*An Act to provide for the construction of a steam-tramway between
Siliguri and Darjeeling.*

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining and working a steam-tramway from Siliguri to Darjeeling ; and whereas an agreement bearing the date the eight day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose ; and whereas it is expedient that the Company should be authorized to construct, maintain and work a steam-tramway upon the existing cart-road between Siliguri and Darjeeling as aforesaid, and to do all things necessary in that behalf ;

Preamble.

It is enacted as follows :—

1. The Act may be called the Darjeeling Steam Tramway Act ;

Short title.

[Commencement].—Rep. by sec. 4 and Sch. III of the Amending Act, 1903 (1 of 1903).

2. The Company may construct and maintain upon the said existing cart-road between Siliguri and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State ²[or the State Government], with all proper rails,

Power to
construct
tramway.

¹LEGISLATIVE PAPERS.—For Proceedings in Council, see the *Calcutta Gazette* of 1879, Supplement, Page 456.

LOCAL EXTENT.—This Act extends only to the Darjeeling Steam-tramway (now known as the Darjeeling-Himalayan Railway).

²The words "or the Provincial Government" were inserted by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act VI of 1879.]

(Section 3.)

sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

Power to
obstruct
cart road.

3. The Company may, with the permission of such officer as the ¹[State Government] may from time to time empower in that behalf, obstruct the said cart-road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

¹The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

Bengal Act VIII of 1879

(THE BENGAL RENT SETTLEMENT ACT, 1879.)¹.

SHORT TITLE GIVEN

Act I of 1903.

REPEALED IN PART

Act VIII of 1885.

Act I of 1903.

ADAPTED

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

(b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.

(c) The Adaptation of Laws
Order, 1950.

(4th June, 1879.)

An Act to define and limit the powers of Settlement-officers.

WHEREAS it is expedient to define and limit the powers of Settlement-officers ; Preamble.

It is enacted as follows :—

1. This Act extends to ²[the district of Darjeeling and to that part of the State³ of Orissa which on the fourth day of June 1879 was] under the administration of the Lieutenant-Governor of Bengal. Extent.

¹SHORT TITLE.—The short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see the Calcutta Gazette* of 1879, Pt. IV, page 46 ; for Report of Select Committee, *see ibid*, page 55, and for Proceedings in Council, *see ibid*, 1879, Supplement, pages 326, 393, 435.

LOCAL EXTENT.—This Act extended originally to the whole of the former Province of Bengal (*see* section 1), and it applies to all settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (VII of 1822), which were confirmed after the commencement of Ben. Act III of 1878 (Powers of Settlement officers), or which were or are confirmed or sanctioned by the Revenue-authorities duly empowered (*see* section 14).

The Act has been repealed by the Bengal Tenancy Act, 1885 (VIII of 1885), sec. 2 (1) in the whole of the former Province of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of the notifications extending the Act of 1885 to such districts under the terms of the notification extending the Act of 1885 to the Jalpaiguri district, the repeal has taken effect in that district.

The only portion of the present State of West Bengal in which Ben. Act VIII of 1879 appears to be effectually in force at the present time is the Darjeeling district.

²Substituted for the words "all the territories" by para. 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³The word "State" was substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act VIII]

(Sections 2—5.)

[Commencement].—Rep. by sec. 4 and Sch. III of the Amending Act, 1903 (I of 1903).

2. [Repeal of Ben. Act III of 1878].—Rep. by sec. 4 and Sch. III of the Amending Act, 1903 (I of 1903).

Interpre-
tation.

3. In this Act—

“Settle-
ment-
officer.”

“Settlement-officer” means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the ¹[State Government] to make any such settlement :

“under
tenant.”

“under-tenant” means any holder of a heritable and transferable intermediate tenure between ²[the Government] and the *raiyat* other than a *zamindar*.

Settlement
proceedings
not affected
by certain
enactments.

4. Nothing contained in section 51 of Regulation VIII of 1793³ or in sections 13, 14 and 17 of Act X of 1859,⁴ * * * shall affect any settlement proceeding under Regulation VIII of 1822,⁵ or under any other law for the time being in force for the regulation of settlements of land-revenue.

Rent to be
in accord-
ance with
rates
sanctioned
by the
Revenue-
authorities.

5. In any such settlement-proceedings the rent recorded as demandable from each *raiyat* shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the Revenue-authorities from time to time empowered in that behalf by the ¹[State Government].

¹The words “Provincial Government” were first substituted for the words “Lieutenant-Governor” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words “the Crown” were first substituted for the words “the Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “Government” was substituted for the word “Crown” by para. 4(1) of the Adaptation of Laws Order, 1950.

³The Bengal Decennial Settlement Regulation, 1793.

⁴The Bengal Rent Act, 1859.

⁵The words and figures “or in sections 14, 15 and 18 of Bengal Act VIII of 1869”, were repealed by sec. 4 and Sch. III of the Amending Act, 1903 (I of 1903).

⁶The Bengal Land-revenue Settlement Regulation, 1822.

of 1879.]

(Sections 6, 7.)

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable for any *raiyat* having a right of occupancy than the rent which was previously paid by him, namely :—

Grounds
of enhance-
ment.

- (i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of *raiya*ts for land of a similar description and with similar advantages in the surrounding neighbourhood ;
- (ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the *raiyat* since the rent of the *raiyat* was last fixed ;
- (iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the *raiyat* since the rent of the *raiyat* was last fixed ; and that such higher rent does not bear a higher proportion to the rent of such *raiyat* as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed ;
- (iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the *raiyat* since the last previous settlement of the lands was made ; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer ;
- (v) that the quantity of land held by the *raiyat* has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules :—

- (a) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against ¹[the Government].

Rules for
deter-
mining
rent
recorded as
demand-
able.

¹ See foot-note 2 on page 350, *ante*.

[Ben. Act VIII]

(Sections 8, 9.)

- (b) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten *per cent.* below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and *raiya*ts and whose holdings fall within his tenure.
- (c) If the Settlement-officer shall find that the tenure is not binding as against ¹[the Government], he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders ²[of the State Government] for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than aggregate of the rents recorded as payable to him from the subordinate under-tenants and *raiya*ts whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

Procedure when rent demandable is recorded below that to which it might have been enhanced.

8. When the rent demandable from any under-tenant or *raiya*t is recorded at an amount below that to which the rent of such under-tenant or *raiya*t might have been enhanced under this Act, it may be recorded that such under-tenant or *raiya*t shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement-officer until the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

Service of notice of enhancement.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or *raiya*t than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the *jamabandi* or extracts therefrom, specifying in respect of each such under-tenant or *raiya*t the rent recorded as payable by him, and in the case of a *raiya*t, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jamabandi*, or of such extracts therefrom as the Collector may think fit, at the *mal cutcherry* of the village to which the *jamabandi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jamabandi* can be inspected at the office of the Settlement-officer.

¹ See foot-note 2 on page 350, *ante*.

² The words "of the Provincial Government" were first substituted for the words "of Government," by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

of 1879.]

(Sections 10—14.)

10. Every under-tenant and *raiyyat* shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or *raiyyat* to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

Suit to
contest
rents,

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jamabari* or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Procedure
in suits to
contest
rent
recorded
as demand-
able.

12. If publication of the copy of a *jamabandi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

Enhance-
ment when
to take
effect.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

Rent to
hold good
for ten
years or
until
expiration
of settle-
ment.

14. The provisions of this Act shall apply to all settlement proceedings under Regulation VII of 1822¹ which may have been confirmed after the commencement of Bengal Act III of 1878² or which may hereafter be confirmed or sanctioned by the Revenue-authorities from time to time empowered in that behalf by the ³[State Government] whether such proceedings shall have been commenced before or after the commencement of the said Act.

Application
of Act.

¹The Bengal Land-revenue Settlement Regulation, 1822.

²Ben. Act III of 1878 was repealed by sec. 2 of this Act.

³See foot-note 1 on page 350, *ante*.

Bengal Act IX of 1879

(THE COURT OF WARDS ACT, 1879.)

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of 1879.]

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- 51. Manager or Collector to be next friend or guardian in suits by or against ward.
- 52. Power of Court of Wards to nominate another person to be next friend or guardian for suit.
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- 61. Adoption by ward invalid without consent of State Government.
- 62. (*Repealed.*)
- 63. (*Repealed.*)
- 63. Recovery of interest on arrears of rent.
- 64. Record of reasons when penalty imposed under section 57 or 58.
- 64A. Publication of notices.
- 65. Procedure when Court's jurisdiction ceases.
- 65A. Recovery of expenses after release of property.
- 66. Judicial powers of Collector in making inquiries.
- 67. Appeals.
- 68. Control by Court.
- 69. Control by State Government.
- 69A. Application of Act to States of Ruler; of Indian States.
- 70. Power to Court to make rules.

Bengal Act IX of 1879.

(THE COURT OF WARDS ACT, 1879.)¹

AMENDED

Ben. Act III of 1881.
Ben. Act II of 1909.
Ben. Act I of 1914.
Ben. Act V of 1915.
Ben. Act VI of 1936.
Ben. Act I of 1939.
E. B. and A. Act I of 1911.

REPEALED IN PART

Ben. Act VII of 1880.

REPEALED IN PART AND AMENDED

Act IV of 1892.
Act X of 1892.
Act V of 1897.
Act I of 1903.
Ben. Act I of 1906.
Ben. Act IX of 1941.
(E. B. and A. Act III of 1907.

ADAPTED

- (a) The Government of India
(Adaptation of Indian
Laws) Order, 1937.
- (b) The Indian Independence
(Adaptation of Bengal and
Punjab Acts) Order, 1948.
- (c) The Adaptation of Laws
Order, 1950.

(30th July, 1879.)

An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal^a ;

It is enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879 : Short title.

^a[It extends to the States⁴ of West Bengal, Bihar and Assam and that part of the State⁴ of Orissa which on the 30th day of July, 1879, was subject to the Lieutenant-Governor of Bengal.] Extent.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1878, Pt. IV, page 75 ; for Report of Select Committee, see *ibid*, 1879, Pt. IV, page 31 ; for further Report of Select Committee, see *ibid*, page 47 ; and for Proceedings in Council, see *ibid*, 1878, Supplement, pages 317, 343 and 402, *ibid*, 1879, Supplement, pages 6, 332, 400 and 441.

^aThis includes the present State of West Bengal and other territory.

⁴Substituted for the original words by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴The word "States" and "State" were substituted for the word "Provinces" and "Province", respectively, by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act IX

(Part 1.—Preliminary.—Sections 2, 3.)

[Commencement].—Rep. by the Repealing and Amending Act, 1897 (V of 1897).

Repeal and
savings.

2. Bengal Act IV of 1870 (the Court of Wards Act), section 11 of Act XXXV of 1858¹, sections 12, 14 and 15 of Act XL of 1858², and so much of section 21 of Act XL of 1858² as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards, as constituted by Bengal Act IV of 1870, shall be deemed to be under the charge of the Court of Wards, as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act XXXV of 1858¹, or under section 12, section 14 or section 21 of Act XL of 1858², shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made and executed under this Act.

Ben. Act
IV of 1870.

And all orders and appointments made by Collectors under Act XXXV of 1858¹ or Act XL of 1858², and now in force shall (so far as they are consistent with this Act) be deemed to be made under this Act.

Interpre-
tation.

3. In this Act, unless there be something repugnant in the subject or context,—

“Civil
Court”.

“Civil Court” includes the High Court in Calcutta in the exercise of its ordinary and extraordinary original civil jurisdiction or its civil appellate or revisional jurisdiction ;

“Collector”.

“Collector” includes any officer in charge of the revenue-jurisdiction of a district ;

“the
Court”.

“the Court” means the Court of Wards ;

¹The Lunacy (District Courts) Act, 1858. It has been repealed entirely by the Indian Lunacy Act, 1912 (IV of 1912.)

²The whole of Act XL of 1858 was repealed by the Guardians and Wards Act, 1890 (VII of 1890).

³The remainder of sec. 2 (as to pending suits and proceedings) was repealed by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

⁴Inserted by sec. 2 of the Bengal Court of Wards (Amendment) Act, 1941 (Ben. Act IX of 1941) ; regarding retrospective effect see sec. 4 of Ben. Act IX of 1941.

of 1879.]

(Part I.—Preliminary.—Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 4—6.)

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated :

“estate” means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue ¹[and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara* or *Mithila* law] :

“estate”.

“minor” means a person who has not completed his age of twenty-one years :

“section” means a section of this Act :

“section”

“ward” means any person who is under the charge of the Court of Wards, or whose property is under such charge,

“ward”.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858², or the jurisdiction, as respects infants, of any High Court of Judicature.

Saving of Act XXXIV of 1858 and of jurisdiction of High Court as respects infants.

PART II.

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

Constitution and general duties of Court of Wards.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

6. Proprietors of estates shall be held disqualified to manage their own property when they are—

Disqualified proprietors.

(a) females declared by the Court incompetent to manage their own property ;

(b) persons declared by the Court to be minors ;

(c) persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs ;

¹These words were added by sec. 2 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

²The Lunacy (Supreme Courts) Act, 1858. It has been entirely repealed by the Indian Lunacy Act, 1912 (IV of 1912).

*(Part II.—Constitution, Jurisdiction and Powers of the
Court of Wards.—Sections 7—9.)*

(d) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property ;

¹(e) persons as to whom the ²[Court] has declared, on their own application, that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court.

Jurisdiction of Court over disqualified proprietors.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction ; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor :

³Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified on his own application under clause (e) of section 6,

Court when bound to give up charge.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

Discretion of Court as to taking and keeping charge.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- (a) take charge of such property without taking charge of such person ;
- (b) refrain from taking charge of any such person or property ;
- (c) at any time withdraw from such charge, if taken ;
- (d) at any time resume such charge, after having withdrawn from it.

¹Clause (e) was added to sec. 6 by sec. 3 of the Court of Wards Act (Bengal) Amendment, Act 1892 (IV of 1892).

²This word was substituted for the words "Local Government" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

³This proviso was added to sec. 7 by sec. 4 of the Court of Wards Act, (Bengal) Amendment Act, 1892 (IV of 1892).

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 9A, 10.)

1*

9A. When the Court of Wards withdraws from the charge of such property it shall publish, in the manner provided in section 64A, a notice of the termination of the charge and thereupon subject to the provisions of *clause 3* of section 23—

Effect of withdrawal from charge.

- (a) such charge shall terminate with effect from the date fixed in accordance with the provisions of section 65 ;
- (b) the owner of the said property shall be restored to the possession thereof from the said date subject to any order made by a Civil Court and to any contracts entered into by the Court of Wards for the preservation or benefit of such property.

9A. [*Effect of withdrawal from charge.*—*Rep. by sec. 2 (2) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).*]

VIII of 1890.

10. ^a[Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards Act, 1890, appointing a guardian of the person or property of a minor, or both ;

Application by Civil Court to Court of Wards to take charge.

whenever a Civil Court removes, under section 39 of the same Act, the guardian of a minor,]

IV of 1912.

or whenever a person has been adjudged, under ⁴[the Indian Lunacy Act, 1912,] to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor ; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

¹The clauses of section 9 which were added by sec. 5 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892), were repealed, in Western Bengal, by sec. 2 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), and in Eastern Bengal, by sec. 2(1) of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act III of 1907), and are omitted. Section 5 of Act IV of 1892 was, in turn, repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914).

²Section 9A was inserted by sec. 2(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

³These words and figures were substituted for the original words by sec. 6 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

⁴These words and figure were substituted for the words and figures "Act XXXV of 1858" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

[Ben. Act IX

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Section 10A.)

Nothing contained in ¹[sections 73 to 81 (both inclusive) of the Indian Lunacy Act, 1912,] shall be held to apply to persons or properties under the charge of the Court of Wards. IV of 1912.

Notice to
creditors.

²10A. (1) Whenever the Court of Wards assumes charge of any person or property under section 7 or section 10, it shall publish, in the manner provided in section 64A, a notice calling upon all creditors having claims against the ward of his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the notice aforesaid :

³Provided that if a suit or proceeding in respect of a claim is pending in any Civil Court at the date of the publication of such notice, intimation of that fact shall be given by the creditor concerned to the Court of Wards within the period aforesaid and notice of the decision of the Civil Court in respect of such claim shall also be given to the Court of Wards within three months after the final disposal of such suit or proceeding.

(2) Every such claim (other than a claim on the part of "the Government") not submitted to the Court in compliance with the provisions of sub-section (1), shall, ⁴* * * * notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the ⁵[period for submission of the claim or in any case where a suit or proceeding in respect of a claim is pending in any Civil Court, the period of three months after the final disposal of such suit or proceeding referred to in the said sub-section] :

Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of sub-section (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of the expiry of the period aforesaid.

¹These words and figures were substituted for the words, figures and brackets "sections 12 to 19 (both inclusive) of Act XXXV of 1856" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act 1938 (Ben. Act I of 1939).

²Section 10A as inserted by sec. 3 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), was substituted, as modified by section 3(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936), for section 10A as inserted by section 3 of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act III of 1907), by the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936), sec. 3(2).

³This proviso was added by sec. 3(1) (a) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁴The words "the Crown" were first substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵The words "save in the case provided for by section 10E, sub-section (2), clause (c)" were omitted by sec. 3 (1)(b)(i) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁶These words were substituted for the words "period aforesaid" by sec. 3 (1)(b)(ii), *ibid*.

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 10B, 10C.)

¹10B. (1) Every creditor submitting his claim in compliance with the provisions of sub-section (1) * * * * of section 10A shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document.

Creditors to furnish full particulars and documents.

(2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any suit brought by the creditor or by any person claiming under him in respect of such claim, unless good cause be shown, to the satisfaction of the Civil Court entertaining the suit, for the non-production of the document as required by sub-section (1) * * * * *

⁴10C. (1) Where any property is in charge of the Court of Wards no Civil Court shall execute any decree or order against the person or property of the ward within four years from the date of the commencement of the Bengal Court of Wards (Amendment) Act, 1935, or from the date of the assumption of charge of the property by the Court of Wards, whichever is later, and for seven years thereafter if the interest due under such decree or order be paid in full every year during the said seven years.

Bar to certain proceedings.

Ben. Act VI of 1936.

In calculating the period of limitation applicable to an application for the execution of a decree or order, the time during which the execution of such decree or order is barred under this sub-section shall be excluded.

(2) Except as provided in section 23A, no property in charge of the Court of Wards shall be sold by any revenue authority under any law so long as the Court remains in charge thereof.

¹Section 10B as inserted by section 8 of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act III of 1907), was substituted, as modified by sec. 4(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936), for sec. 10B as inserted by sec. 8 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), by sec. 4(2) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²The words "or the proviso to sub-section (5)" were omitted by sec. 4(1) (a), *ibid.*

³The words "and the Judge receiving any such document shall record his reasons for so doing" were omitted by sec. 4(1)(b) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁴Sections 10C and 10CC were substituted for section 10C by sec. 4 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

[Ben. Act IX

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 10CC—10E.)

Special
limitation
for suits
against
wards.

¹10CC. In calculating the period of limitation applicable to a suit against a ward, a period of four years shall be added to the period of limitation allowed by law.

Adjudica-
tion of
claims.

²10D. (1) On receipt of all claims submitted in compliance with the provisions of sections 10A and 10B, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court has admitted any claim under sub-section (1), it may make to the creditor a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both ; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been submitted to the Court of Wards :

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been submitted to the Court of Wards the period from the date of submission of the claim up to the date of the communication of the Court's decision thereon to the creditor shall be excluded.

10E. [*Relinquishment of inextricably involved estates.*—Rep. by sec. 7 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936.)

¹Sections 10C and 10CC were substituted for section 10C by sec. 5 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²Section 10D as inserted by sec. 3 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), were substituted for section 10D as inserted by sec. 3 of Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), by sec. 6(2), *ibid.*

³The proviso was omitted by sec. 6(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 11—13.)

¹11. The Court of Wards may retain charge of the whole of the property of any joint proprietors disqualified under section 6 of which the Court has taken charge under section 7, or of any property of which the Court has taken charge under section 10, notwithstanding the fact that a joint proprietor, or some joint proprietors, of such property has or have ceased to be subject to the jurisdiction of the Court or that any person has become entitled to such property or any part thereof jointly with any disqualified proprietor :

Procedure when any of the joint proprietors ceases to be disqualified or any person becomes entitled to property jointly with a disqualified proprietor.

Provided that if the share of such proprietor or person is duly partitioned the Court shall, subject to the provisions of section 13A, release such partitioned share :

Provided further that if the disqualified joint proprietor be the manager of a *Mitakshara* joint family the Court shall, on his ceasing to be so disqualified and on application being made by him in this behalf, release the property.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 * * * and from the charge of any person or property ^a[which either before or after the commencement of this Act was or is placed] under the charge of the Collector by a Civil Court under section 12, section 14 or section 21 of Act XL of 1858⁴, or under section 11 of Act XXXV of 1858⁵ ⁶[or under any other enactment for the time being in force] :

Withdrawal from charge by Court.

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876⁷, or until the dispute has been determined by a competent Civil Court.

Procedure when succession to property of ward disputed.

¹Section 11 was substituted for former section 11, by sec. 8 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²The words and figures "or under section 11," were omitted by sec. 9 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

³These words were substituted for the words "which before the commencement of this Act was placed" by sec. 8 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

⁴Act XL of 1858 was repealed by the Guardians and Wards Act, 1890 (VIII of 1890).

⁵The Lunacy (District Courts) Act, 1858. It has been repealed by the Indian Lunacy Act, 1912 (IV of 1912).

⁶These words were added by sec. 8 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

⁷The land Registration Act, 1876.

[Ben. Act IX

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 13A—15.)

Power of Court to retain charge of property of disqualified proprietor until discharge of debts.

¹13A. If, when any disqualified proprietor dies, or ceases to be disqualified within the meaning of this Act, there remain undischarged any debts or liabilities which were incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof ²[or any liabilities which were incurred by the Court for the benefit of the property of such proprietor],

then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged :

Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representative.

General powers of Court.

14. Subject to the provisions of this Act, the Court—

(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

Exercise through others of powers conferred on Court.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

Delegation of powers.

The Court may, * * * * *, from time to time, delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time, * * * * *, revoke such delegation.

¹Section 13A, as inserted by sec. 4 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), was substituted for section 13A as inserted by section 5 of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), by sec. 10 (2) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1935).

²These words were inserted by sec. 10 (1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1935).

³The words "with the sanction of the Lieutenant Governor" and "with the like sanction", respectively, were repealed by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sections 16—21.)

¹16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act ; and may order that such expenses, inclusive of all salaries, gratuities, and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purpose of which such establishments are, or have been, entertained or such expenses have been incurred.

Establishments and expenses.

17. [General contribution for general purposes].—Rep. by the Government Management of Private Estates Act, 1892 (X of 1892).

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

Power to manage property.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate ; and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the ²[State Government], may direct.

When Court may order property to be formed into separate estate.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed.

Appointment of managers and guardians.

On any disqualified proprietor becoming a ward, the Court may, at its discretion confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

Custody, education and residence of wards.

¹Section 16 was substituted for the original section 16 by sec. 3 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

²The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act IX]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Part III.—Protection from Sale of certain Estates.—Sections 22, 23.)

Allowance
for ward
and his
family.

22. The Court shall allow, for the support ¹[and education] of each ward and ²[for the support] of his family such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties ³[and the financial condition of the property of the ward under its charge].

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

Estate
under
charge of
Court
exempt
from sale.

⁴23. *Clause 1.*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act XI of 1859⁵, every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876⁶, shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court :

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

Recovery of
arrears of
revenue,
etc., due
at the
time when
property
ceases to be
under
charge of
Court.

⁷*Clause 2.*—If at the time when any property ceases to be under the charge of the Court of Wards, any liabilities enumerated in this clause are outstanding in respect of any part of the property, the Collector may attach the whole or any part of such property whether consisting of estates, or shares or parts of estates, or tenures or holdings and collect the rents, cesses and other demands due and all arrears thereof, managing the property so attached either directly or through a manager or by farming as he may think fit :

Provided that such attachment shall not remain in force for a period exceeding five years.

¹These words were inserted by sec. 11 (i) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²These words were inserted by sec. 11 (ii), *ibid.*

³These words were added by sec. 11 (iii), *ibid.*

⁴Sections 23 and 23A were substituted for the original section 23 by sec. 4 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

⁵The Bengal Land-revenue Sales Act, 1859.

⁶The Land Registration Act, 1876.

⁷This clause was substituted for the original clause 2 by sec. 12(i) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

of 1879.]

(Part III.—Protection from Sale of certain Estates.—Section 23.)

The Collector shall from the proceeds of such property discharge the liabilities of the whole property in the following order of priority :—

- (1) cost of management,
- (2) arrears of Government revenue and interest,
- (3) current revenue,
- (4) ¹[cesses due to the Government²],
- (5) arrears of rent and cess due to the superior landlords and interest thereon,
- (6) ³[other sums due to the Government², including the principal of and interest on any loans advanced by any Government], and
- (7) current rent.

After satisfaction of the above liabilities the Collector shall, subject to any order of the Civil Court in this behalf, release the property to the proprietor, and pay to him or his duly constituted agent any surplus that remains in the hands of the Collector, and shall furnish such proprietor with an account of the receipts and expenditure extending over the time when the property was under attachment.

⁴*Clause 3.*—(1) When the Court of Wards decides to withdraw from the charge of any property on the ground that, in its opinion, the property is insufficient to pay the liabilities of the proprietor, secured and unsecured, within a reasonable period, it shall give the proprietor and his creditors such opportunities as it thinks reasonable to come to an agreement regarding the release of the property from the charge of which it is about to withdraw and if any such agreement is reached, the Court of Wards, if it is of opinion that the agreement is valid, shall release the property to the proprietor.

Adminis-
tration of
property
by trustees
on with-
drawal
from
charge
by the
Court of
Wards.

If the property is not so released, the Court of Wards may, upon notice to the proprietor, call a meeting of his creditors to elect not less than two trustees to administer the property. At such meeting the creditors shall have votes in proportion to the debts owing to them respectively. The opinion of creditors to whom three-fourths of the debts of the proprietor are owing shall prevail. This procedure relating to the holding of such meeting shall be laid down by the Court of Wards.

¹These words were substituted for the words "cesses due to Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

³These words were substituted for the words "other Government. dues including the principal and interest of loans advanced by Government, if any," by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴This clause was added by sec. 12(ii) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

(Part III.—Protection from Sale of certain Estates.—Section 23A.)

If the creditors fail to elect the trustees or if the trustees elected refuse to act within a time to be fixed by the Court of Wards, the Court of Wards may appoint the trustees. The trustees so elected or appointed shall be deemed to be appointed by the Civil Court.

(2) Upon the trustees, so elected or appointed, as the case may be, expressing their willingness to act as trustees the property shall, subject to the right of the Collector to attachment, collection and discharge of the liabilities mentioned in section 23, vest in them, in trust to administer it under the directions of such Civil Court as may be prescribed by rules for discharging the other liabilities of the proprietor and making over the residue, if any, to him. The Collector shall pay to the trustees, instead of to the proprietor or his agent, any surplus that remains in his hands. Notice of the withdrawal of the Court of Wards and the vesting of the property in the trustees shall be published in the manner provided in section 64A.

(3) Upon the vesting of the property in the trustees the charge of the Court of Wards shall be deemed to be withdrawn but the proprietor shall not become liable to arrest or imprisonment in execution of any decree or order for such liabilities.

(4) Any adjudication of claims by the Court of Wards or compromise under section 10D shall be binding in the same manner and to the same extent as if the Court of Wards had not withdrawn from charge of the property and as if the Civil Court had made such adjudication or recorded such compromise.

(5) The Civil Court shall have all the powers given by law, including the law of insolvency, for the administration of the said property and the trusts mentioned above and shall also have power to remove trustees and appoint new trustees.

(6) The proprietor or the creditors will be at liberty to apply to the Civil Court from time to time, as there may be occasion, for such removal or appointment, for the framing of a scheme of administration, or for the termination of the trust and discharge of the trustees.

(7) The form of notice, the manner of service thereof, the manner of signifying the willingness of trustees to act, the procedure for the election of trustees and the Civil Court under whose directions the trustees shall administer the property may be prescribed by rules to be framed by the ¹[State Government].

²23A. Notwithstanding anything in clause 5, section 8, Regulation I of 1793³, or in section 23 of this Act, contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time be sold under the provision of the law for the time being in force

Conditions under which estate may be sold for arrear of revenue accrued under Court.

¹The words "Provincial Government" were first substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²See foot-note 4 on page 370, *ante*.

³The Bengal Permanent Settlement Regulation, 1793.

of 1879.]

(Part III.—Protection from Sale of certain Estates.—Part IV.—Ascertainment of Disqualification.—Sections 24—27.)

for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.

24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years ; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

Restriction on sale for arrears of revenue of estate belonging to minor.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

Power of Collector to attach such estate.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

Section 24 not to apply unless notice given.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector ; and the Collector after deducting the amount of the claims of the Government for revenue and other public demands, and the charges of management, shall either pay the proceeds to the person authorised to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

Application of proceeds of estate farmed under section 24.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any person residing in his district or, being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such inquiry as he may deem necessary ; and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court ;

Procedure for ascertaining and declaring disqualification.

and the Court shall, on receipt of such report, make such order consistent with this Act, as may seem to it expedient.

[Ben. Act IX

(Part IV.—Ascertainment of Disqualification.—Sections 28—31.)

Power to
enforce
provisions
of Act
without
report.

28. Nothing in section 27 shall prevent the Court or the ¹[State Government] from putting the provisions of this Act in force without any report from the Collector.

Powers of
Collector
as to
preserva-
tion of
property
on death
of a
proprietor
whose heirs
should be
declared
disquali-
fied.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died,

or that the sole proprietor of any estate has died within his district,

and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable property, or any such deeds, documents or papers may be, to take charge of the same ; and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector.

Recovery
of expenses
if property
is not
taken
under
charge of
Court.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868², or any similar law for the time being in force.

Produ-
tion of
minor
proprietor,
and order
for his
temporary
custody.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed ; and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

Applica-
tion to
Civil
Court in
case of
lunatics.

31. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order

¹ See foot-note 1 on page 372, *ante*.

² The Bengal Land-revenue Sales Act, 1868.

of 1879.]

(Part IV.—Ascertainment of Disqualification.—Sections 32—34.)

IV of 1912.

the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of ¹[the Indian Lunacy Act, 1912], to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

32. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall inquire into and determine the question as to the alleged incapacity.

Application to Civil Court to make inquiry regarding disqualification on ground of physical defect or infirmity.

33. If a sole proprietor of an estate, who is resident within the local limits of the ordinary original civil jurisdiction of ²[the High Court at Calcutta], or resident beyond the territory administered by the ³[State Government] * * * shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Parganas, or to such other Civil Court as the ⁴[State Government], on application made to ⁵[it] by the Collector in that behalf, may determine.

Similar application when proprietor resides within original jurisdiction of High Court or beyond West Bengal.

Such Civil Court shall thereupon inquire into and determine the question as to the alleged incapacity.

34. When any inquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such inquiry, have the powers conferred, and proceed in the manner prescribed, by ¹[the Indian Lunacy Act, 1912] with respect to the inquiries directed to be made by the said Act.

Powers and duties of Courts when inquiry is instituted under section 32 or 33.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry; and the Court of Wards shall thereupon in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

¹See foot-note 4 on page 363, *ante*.

²Substituted for the words "the High Court of Judicature at Fort William in Bengal" by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

³The words "Provincial Government" were first substituted for the word Lieutenant-Governor by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴The words "of West Bengal" were omitted by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

⁵This word was substituted for the word "him" by paragraph 3(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act IX

(Part IV.—Ascertainment of Disqualification.—Part V.—Procedure after Ascertainment of Disqualification.—Sections 34A—36.)

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by ¹[section 82 of the Indian Lunacy Act, 1912], with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

IV of 1912.

Recovery of expenses incurred by Collector under sections 81 to 83.

²34A. All expenses incurred, by a Collector in taking action under section 31, section 32 or section 33 in respect of any person shall, if the property of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, under the procedure provided by the ³[Bengal Public Demands Recovery Act, 1913], for the recovery of public demands.

Ben. Act III of 1913.

PART V.**PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.**

Order declaring person or property to be under charge of court.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court; and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to take possession of moveable property.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated or some person authorised in writing by him in that behalf, shall, take possession of all accounts, papers and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorised as aforesaid may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

¹These words and figures were substituted for the words and figures "section 21 of Act XXXV of 1858" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Section 34A as inserted by section 5 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), was substituted for section 34A as inserted by section 7 of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), by sec. 13(2) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

³These words and figures were substituted for the words and figures "Public Demands Recovery Act, 1895" by sec. 13(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

of 1879.]

(Part V.—*Procedure after Ascertainment of Disqualification.*—
Part VI.—*Management and Guardianship.*—Sections 37-41.)

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him ;

Additional powers of Collector.

and may order any person to deliver up any accounts, papers or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders or tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

Collector when to be deemed manager.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor ;

Powers of manager.

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall, in every respect, act to the best of his judgment for the ward's interest as if the property were his own.

General duties of manager.

41. Every manager appointed by the Court shall—

- (a) have the care of so much of the property of the ward as the Court may direct ;
- (b) give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property ;
- (c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management ;

Specific duties of manager.

[Ben. Act IX**(Part VI.—Management and Guardianship.—Sections 42—45.)**

- (d) pass his accounts at such periods and in such forms as the Court may direct ;
- (e) pay the balance due from him thereon ;
- (f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court ;
- (g) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office ;
- (h) be entitled to such allowance, to be paid out of the property, as the Court may think fit, for his care and pains in the execution of his duties ;
- (i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

General
duties of
guardian.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific
duties of
guardian.

43. Every guardian appointed by the Court shall—

- (a) give such security (if any) as the Court thinks fit, to the Collector for the due performance of his duty ;
- (b) pass his accounts at such periods and in such form as the Court may direct ;
- (c) pay the balance due from him thereon ;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship ;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court ;
- (f) be entitled to such allowance, to be paid out of the property of the ward, as the Court may think fit, for his care and pains in the execution of the duties.

Exclusion
of certain
interested
persons
from
guardian-
ship.

44. No person who would be the next legal heir of a ward or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian ;

but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

Who to be
guardian
of female
ward.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

of 1879.]

(Part VI.—Management and Guardianship.—Sections 46—48.)

46. Every sum due to the Court from a manager or guardian or from the sureties of a manager or guardian or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act VII of 1868¹ or any similar law for the time being in force.

Recovery of sums due to the Court.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Court may order guardian or manager to take over property.

²48. All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may, from time to time, give in that behalf.

Application of moneys received by the manager.

Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included in class I over those included in class II, to the purposes included in class II over those included in class III and to the purposes included in class III over those included in class IV.

Class I.

(1) The payment of all charges necessary for the management and supervision of the property of the ward,

(2) the payment of the charges referred to in section 22, and

(3) the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

Class II.

(1) The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward, and

(2) the payment of interest at not more than four and a half *per centum per annum* on all debts incurred by the Court on behalf of the ward or on all debts incurred by the ward which the Court has admitted in the following order of priority :—

(a) debts incurred by the Court in order to consolidate or pay off previous debts incurred at a higher rate of interest,

(b) debts secured by immovable property of the ward,

(c) debts which the Court has reduced under sub-section (2) of section 10D, and

(d) other debts which the Court has admitted.

¹The Bengal Land-revenue Sales Act, 1868.

²Section 48 was substituted for the former section 48 by sec. 14 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1935).

(Part VI.—Management and Guardianship.—Sections 49, 50.)

Class III.

(1) The maintenance in an efficient condition of the estates, buildings and other immovable property belonging to the ward, and

(2) the payment, on such scale as the Court may authorise, of such religious, charitable and other allowances not exceeding the amounts paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family and such expenses for the education of the members of the ward's family as the Court may authorise to be paid.

Class IV.

(1) The payment of the difference between interest at four and a half *per centum per annum* and interest at the rate contracted for on all debts of the ward admitted by the Court in the order specified in clauses (b), (c) and (d) of item (2) in class II,

(2) liquidation of the principal amount of the debts in reasonable instalments, and

(3) improvement of the land and property of the ward and the benefit of the ward and his property generally.

Disposal
of surplus
moneys.

¹49. If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one years, whose property ²[is under the charge of the Court under clause (e) of section 6], ³[any surplus which remains after providing, so far as the Court may think fit, for the objects mentioned in section 48], shall be paid to such ward :

Provided that, before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain—

(1) as a working balance for the management of the property and expenses incidental thereto ;

(2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years.

Power to
invest
surplus.

50. If the ward is not a female or ⁴[male] as aforesaid, and if any surplus remains after providing, so far as the Court may think fit, for the objects mentioned in ⁵[section 48], the same

¹Section 49 was substituted for the original section 49 by sec. 5 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

²These words were substituted for the words "remains under the charge of the Court with his consent under section 11" by sec. 10 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

³These words were substituted for the original words by sec. 15 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁴This word was substituted for the word "person" by sec. 6 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

⁵This word and figure were substituted for the word and figure "section 49" by sec. 6, *ibid.*

of 1879.]

(Part VI.—Management and Guardianship.—Section 50.)

shall be applied in the purchase of other landed property, or invested at interest on the security of—

promissory notes, debentures, stock and other securities of the ¹[Central Government or the Government of] the United Kingdom of Great Britain and Ireland ;

²[bonds, debentures and annuities which, before the fifteenth day of August, 1947, were charged by an Act of Parliament of the United Kingdom] on the revenues of India ³[or of any State] ;

stock or debentures of or shares in railway or other companies the interest whereon ⁴[had, before the fifteenth day of August, 1947, been guaranteed] by the Secretary of State for India in Council ;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of ⁵[any Central or Provincial Act or Act of the Legislature of a part A State or part C State] ; or

such other securities, stocks or shares, guaranteed by the ⁶[Central Government] or ⁷[the State Government], as to the Court shall seem fit ; ⁸[or,

mortgages on immovable property],

¹These words were substituted for the words "Government of India or of" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the words "bonds, debentures and annuities charged by Act of Parliament" by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

³The words "or of the Federation or of any Province" were first inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the words "or of the Federation" were omitted by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948, and finally, the word "State" was substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the words "has been guaranteed" by para. 3 and the Eleventh Schedule, of the Adaptation of Laws Order, 1950.

⁵The words "any Central or Provincial Act" were first substituted for the words "any Act of a Legislature established in British India" by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter, the words "any Central or Provincial Act or Act of the Legislature of a Part A State or Part C State" were substituted for the words "any Central or Provincial Act" by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

⁶These words were substituted for the words "Government of India" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷The words "the Provincial Government" were first substituted for the words "the Government of Bengal" by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁸These words within square brackets were added, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1909 (Ben. Act II of 1909), sec. 2, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1911 (E. B. and A. Act I of 1911), sec. 2. The former Act has been extended to Eastern Bengal by the Bengal Laws Act, 1914, (Ben. Act I of 1914), sec. 3, Sch. I, and the latter Act has been repealed by the same Act, sec. 6, Sch. IV.

(Part VII.—Suits.—Sections 51—55.)**PART VII.****SUITS.**

Manager or
Collector
to be next
friend or
guardian
in suits
by or
against
ward.

51. In every suit brought by or against any ward he shall be therein described as a ward of Court ; and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward ; and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

Power of
Court of
Wards to
nominate
another
person to
be next
friend or
guardian
for suit.

52. The Court of Wards may, by an order, nominate or substitute any other person to be next friend or guardian for any such suit ; and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

Payment
of costs.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Service of
process
against
wards.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

Suits not
to be
brought on
behalf of
wards
unless
authorised
by the
Court of
Wards.

55. No suit shall be brought on behalf of any ward ¹[by a manager], unless the same be authorised by some order of the Court :

Provided that a manager may authorise a plaint to be filed in order to prevent a suit from being barred by the law of limitation ; but such suit shall not be afterwards proceeded with except under the sanction of the Court :

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

¹These words were inserted by sec. 7 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

of 1879.]

(Part VII.—Suits.—Part VIII.—Penalties.—Sections 55A—58A.)

¹55A. No decree or order shall be made by a Civil Court against any person for anything done, honestly and with due diligence under this Act. Indemnity.

56. [*Saving of suits in High Court.*—Rep. by sec. 3 of the Bengal Court of Wards (Amendment) Act, 1941 (Ben. Act IX of 1941).]

PART VIII.

PENALTIES.

57. Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees. For disobeying certain orders of Collector.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with : For disobeying orders under section 47.

²Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order of release, and direct that effect shall be given to the previous order of imprisonment.

³58A. Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission ; and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed. Penalty on farmer neglecting to furnish accounts, etc.

¹Section 55A was inserted by section 16 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²This proviso was added by sec. 8 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

³Section 58A was inserted by sec. 9, *ibid.*

*(Part VIII.—Penalties.—Part IX.—Miscellaneous.—
Sections 59—60A.)*

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family ; or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person ; and, in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may direct ;

and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that, whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner.

For
disobeying
order of
Court.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

Persons
employed
by Court
to be
"public
servants."

¹59A. Every person employed by the Court under this Act shall, for the purposes of the Indian Penal Code, be deemed to be a public servant.

Act XLV
of 1860.

PART IX.

MISCELLANEOUS.

Disabilities
of wards.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof, ²[or to assign over or charge any allowance to be received by him from the Court.]

Exemption
of Wards'
property
from
execution
proceed-
ings in
certain
cases.

60A. No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge.

¹Section 59A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), sec. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), sec. 9.

²These words were added to section 60 by sec. 12 of the Court of Wards Act (Bengal) Amendment Act, 1892 (IV of 1892).

³Section 60A was inserted by sec. 13, *ibid.*

of 1879.]

(Part IX.—Miscellaneous.—Sections 60B—64.)

¹60B. For the purposes of ²[section 10C], Part VII and sections 60 and 60A, ³[a person whose property is under the charge of the Court of Wards under section 11 by reason of the fact that such person has become entitled to the property jointly with a disqualified proprietor,] or charge of whose property has been retained under section 13A, shall be deemed to be a ward, but only so far as regards such property.

Certain persons to be deemed to be wards.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the ⁴[State Government], obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to ⁵[it] through the Court.

Adoption by ward invalid without consent of State Government.

62. [Sections 60 and 61 not to apply in certain cases].—*Rep., in Western Bengal, by the Bengal Court of Wards (Amendment) Act 1906 (Ben. Act I of 1906), and, in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907.)*

63. [Arrears of rent how recoverable].—*Rep. by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880).*

⁶63. Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force; and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate.

Recovery of interest on arrears of rent.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof.

Record of reasons when penalty imposed under section 57 or 58.

¹Section 60B was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), sec. 8, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), sec. 10.

²This word and figure were inserted by sec. 17(a) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

³These words were substituted for the words "a person whose property is under the charge of the Court of Wards by virtue of the second clause of section 11" by sec. 17(b), *ibid.*

⁴See foot-note 3 on page 375, *ante*.

⁵See foot-note 5 on page 375, *ante*.

⁶Section 63 was enacted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881), sec. 10, instead of section 63 repealed by the Public Demands Recovery Act, 1880 (Ben. Act VII of 1880),

(Part IX.—Miscellaneous.—Sections 64A—65A.)

Publica-
tion of
notices.

¹64A. Any notice required to be published by the provisions of ²[section 9A or of sub-section (1) of section 10A or clause 3 of section 23 and any order required to be published under section 65], shall be published—

- ³(a) in the *Official Gazette*⁴ ;
- (b) in at least three issues each of one English and one Vernacular newspaper published in Calcutta ;
- (c) in two issues of a newspaper (if any) published in the district or Division in which the ward ordinarily resides, or has last resided ; and
- (d) by posting such notice on the notice boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate.

Procedure
when
Court's
jurisdiction

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order ; and copies of such order shall be published ⁵[in the manner provided in section 64A.]

Recovery
of expenses
after
release of
property.

⁶65A. Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered^{7*****8}[as a public demand under the Bengal Public Demands Recovery Act, 1913,] from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property :

Ben. Act
III of 1913.

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

¹Section 64A as inserted by sec. 10 of the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), was substituted for section 64A as inserted by sec. 12 of the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), by sec. 18(2) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

²These words and figures were substituted for the words and figures "sub-section (1) of section 10A, or of sub-section (1) of section 10E" by sec. 18(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

³Clause (a) was substituted for the original clause (a) by Sch. III of the Bengal Laws Act, 1914 (Ben. Act I of 1914).

⁴The words "*Official Gazette*" were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵These words were substituted for the words "as the Court may direct" by sec. 19 of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁶Section 65A was inserted by sec. 11 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act III of 1881).

⁷The brackets and words "(as if it were an arrear of land-revenue or)" were omitted by sec. 20(a) of the Bengal Court of Wards (Amendment) Act, 1935 (Ben. Act VI of 1936).

⁸These words were substituted for the words "as a demand, under Bengal Act VII of 1880 or any other Act at the time being in force for the recovery of public demands" by sec. 20(b), *ibid.*

of 1879.]

(Part IX.—Miscellaneous.—Sections 66—70.)

Act V of
1908.

66. A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil procedure, ¹[1908,] on a Civil Court for the trial of suits.

Judicial
powers of
Collector
in making
inquiries.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

Appeals.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court ; and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise.

Control
by Court.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the ²[State Government].

Control
by State
Govern-
ment.

³69A. The powers and functions conferred on the State Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be powers and functions of the Central Government.

Application
of Act to
estates of
Rulers of
Indian
States.

70. The Court may make rules, consistent with this Act,—

- (a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more Divisions ;
- (b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property ;
- (c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited ;
- (d) regulating the custody of securities and title deeds belonging to the estate or property of a ward ;
- (e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act ;
- (f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court ; and
- (g) generally for the better fulfilment of the purposes of this Act.

Power to
Court to
make
rules.

The Court may from time to time alter, add to or repeal such rules.

¹These figures were inserted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 3 on page 375, *ante*.

³Inserted by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

Bengal Act I of 1880

(THE CALCUTTA TRAMWAYS ACT, 1880.)

Contents.

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SCHEDULE.

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Bengal Act I of 1880

(THE CALCUTTA TRAMWAYS ACT, 1880.)¹

VALIDATED	..	{ Ben. Act II of 1884. Ben. Act III of 1894. Ben. Act IV of 1900.
REPEALED IN PART		{ Act I of 1903. West Ben. Act XXV of 1951.
AMENDED.	..	. Ben. Act XVI of 1946.
ADAPTED	..	{ (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(3rd March, 1884.)

*An Act to authorize the making and to regulate the working of
Street Tramways in Calcutta.*

Preamble.

WHEREAS the Corporation of the town of Calcutta, hereinafter called the Corporation, by an agreement dated the 2nd day of October, 1879, for the considerations therein expressed, granted to Dillwyn Parrish, Alfred Parrish and Robinson Souttar and their assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Calcutta upon the terms and in the manner mentioned in the said agreement a copy whereof is set forth in the schedule to this Act, which said agreement had, on the twenty-fifth day of August, 1879, received the sanction of the Lieutenant-Governor of Bengal ;

and whereas the grantees are desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved ;

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1879, Pt. IV, page 105 ; for Report of Select Committee, see *ibid.*, 1880, Pt. IV, page 1 ; and for Proceedings in Council, see *ibid.*, 1879, Supplement, page 1446 ; *ibid.*, 1880, Supplement, page 55.

LOCAL EXTENT.—This Act extends only to Calcutta and its suburbs. See secs. 3 and 4.

The provisions of the Calcutta Tramways Act, 1880 (Ben. Act I of 1880), relating to the purchase of the undertaking or any part thereof which is purchaseable by any body or persons are repealed in so far as such provisions are inconsistent with the provisions of the Calcutta Tramways Act, 1951 (West Bengal Act XXV of 1951), relating to the transfer of the undertaking to Government (*vide* West Ben. Act XXV of 1951 section 6).

(Sections 1—3.)

and whereas the objects of this Act cannot be attained without the authority of the Legislature ;

It is hereby enacted as follows :—

Short
title.

1. This Act may be called the Calcutta Tramways Act, 1880.

(Commencement.)—*Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).*

Meaning of
"tramway."

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways
may be
made in
accordance
with the
agreement
between
the Cor-
poration
and the
grantees.

3. Subject to the provisions of this Act, and of the said agreement, the grantees may make and maintain in Calcutta a tramway or tramways, with single or double lines, and with all necessary sidings, turn-outs, connections and lines (but in the case of sidings and turn-outs only in such places as the Corporation may sanction) on the followings routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned by the ¹[State Government] :—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghat Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lall Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street, and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the Circular tramway at Koila Ghat Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

¹The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1880.]

(Sections 4—6.)

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2 :

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places :—

In tramway Number 1, Colootollah Street.

Ditto „ 2, the whole.

Ditto „ 6, Elliott Road.

Ditto „ 7, the connecting line.

4. In the event of any other tramway or tramways on other routes in Calcutta or in the Suburbs of Calcutta being from time to time approved by the Corporation or the Municipal Commissioners for the said Suburbs as the case may be, and sanctioned ¹[by the State Government] and undertaken by the grantees, notice thereof specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published in ²[Official Gazette]

Application of Act to Suburban tramways.

and, upon such publication, all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act and as if the agreement, if any, in reference thereto had been included in the schedule to this Act.

5. Every tramway shall be constructed on the metre gauge of 3 feet 3 $\frac{3}{8}$ inches, or on such other gauge not exceeding 4 feet 8 $\frac{1}{2}$ inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road ; and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

Form in which tramways are to be constructed and maintained.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Corporation to be fit for such traffic.

No tramway to be opened without certificate from Engineer.

¹The words "by the Provincial Government" were first substituted for the words "by Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "Calcutta Gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act I

(Sections 7—12.)

Carriages
how to be
worked.

7. The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical as the grantees may think suitable :

Provided that no steam-carriages shall be used without the special consent of the Corporation to be obtained in special general meeting of the Commissioners, and without the sanction of the ¹[State Government].

Grantees
may use
tramway
carriages
with flange
wheels.

8. The grantees may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for—

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ble only to—Page 394—

Grantees
may fix
and

9. The ^{*}In section 9, for the words "shall have power from time to time to fix", substitute the words "shall have power, with the rates 'to time to fix', substitute the words "shall have power, with cars or c2 the previous agreement" the State Gov to fix on

Amend-
ment of
section 9 of
Ben. Act I
of 1880.

2. In section 9 of the Calcutta Tramways Act, 1880, the proviso shall be omitted.

Printed
list of
fares, etc.,
to be
placed
in car-
riages.

10. A printed list, in English, Bengali and Urdu, of all the fares and charges authorised by this Act to be taken, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways.

Such list and printed copy as aforesaid shall be published in the ²[Official Gazette] at the expense of the grantees.

Fares how
to be paid.

11. The fares and charges by this Act authorised shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by notice to be annexed to the list of fares, from time to time appoint.

Power to
break up
streets.

12. The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets, as defined by Bengal Act IV of 1876 (*the Calcutta Municipal Consolidation Act*)⁴, and bridges in the town of Calcutta, and

¹See foot-note 1 on page 392, ante.

²See foot-note 2 on page 393, ante.

³Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which again was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923). Ben. Act III of 1923 was further repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951). The reference in the text should now be construed as a reference to the last mentioned Act—see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), sec. 10.

of 1880.]

(Section 13.)

therein lay sleepers and rails and repair, alter or remove the same ; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways subject to the following regulations :—

1st.—They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a quarter of a mile on any line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground and make good the surface, and to the satisfaction of the Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals by the disturbance thereof.

7th.—If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

13. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Corporation shall direct, the rails of which any of their tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway ; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway ; and in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

Grantees to keep the tramway roads in proper repair.

(Sections 14—20.)

Grantees not to obstruct ordinary traffic.

14. In exercising the powers given to them by the last two preceding sections, the grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gaspipes by the direction of the Corporation.

Reservation of right of public to use roads.

15. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Saving of Port Commissioners' tramways.

16. Nothing in this Act, or in any by-law made under this Act, shall interfere with the right of the Port Commissioners, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Right of user only.

17. Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway,

Penalty for failure of grantees to comply with provisions of this Act.

18. If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing grantees in the exercise of their power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things namely :—

interferes with, removes or alters any part of a tramway of the grantees, or of the works connected therewith ;

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(Sections 21—24.)

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways ;

or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Penalty for avoiding payment of proper fare.

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer, in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Servant of grantees may arrest persons avoiding payment of fare.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Carriage of dangerous or offensive goods.

24. The Corporation in special general meeting may subject to confirmation thereof by the ¹[State Government], from time to time make such regulation as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act.

By-laws by Corporation.

¹ See foot-note 1 on page 392, ante.

(Sections 25—28.)

The
grantees
may make
certain
regulations.

The grantees may, subject to confirmation as aforesaid, from time to time make such regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and

for regulating the travelling in or upon any carriage belonging to them,

as are inconsistent with this Act.

Notice of the making of any such ¹[regulations] shall be published by the Corporation in the ²[*Official Gazette*].

Penalty
for breach
of by-laws.

25. Any person offending against any ³[regulation] made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such ¹[regulations] as a penalty for such offence.

Power to
Corpora-
tion to
license
drivers,
conductors,
etc.

26. The Corporation shall have the like power of making and enforcing rules and regulations and of granting licenses with respect to all drivers, conductors and other persons having charge of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of hackney-carriages and other persons having charge thereof.

Grantees
to be
respon-
sible for all

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for
the Cor-
poration
and police
to regulate
traffic on
roads.

28. Nothing in this Act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

¹Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for the word "by-laws."

²See foot-note 2 on page 393, *ante*.

³Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for the word "by-laws".

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(Sections 29, 30.)

29. Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company, Limited, in the exercise of the powers conferred upon them under Act V of 1857¹ from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same :

Reser-
vation
of power
over roads.

Provided—

- (1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit ;
- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees ;
- (3) that before they commence any work, whereby the traffic on the tramways will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work ;
- (4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantees ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

30. The Corporation shall have the right of purchasing the tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given ;

Corpora-
tion to
have right
of pur-
chasing
tramways
after
twenty-one
years.

and the consideration for such purchases shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the ²[Central Government], or securities the interest whereon shall have been guaranteed by the Secretary

¹Act V of 1857 is an Act of a private character (Oriental Gas Company), and is therefore not printed in this Code.

²These words were substituted for the words "Government of India" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven *per cent. per annum* on the amount of the said invested capital :

and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways, which shall have been purchased from them.

SCHEDULE.

Articles of Agreement made this second day of October, 1879, between the Corporation of the Town of Calcutta incorporated under ¹[Act IV of 1876² of the Lieutenant-Governor of Bengal in Council] hereinafter called the said Corporation on the one part, and Dilwyn Parrish and Alfred Parrish, both of London, and Robinson Souttar, of Liverpool, hereinafter called the said grantees of the other part. Whereas the said Corporation have, subject to confirmation thereof by the Government of Bengal, and to the recognition of this agreement by an Act of the Bengal Legislature, agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Calcutta, upon the terms and conditions hereinafter contained, now these presents witness that, in consideration of the covenants and agreements hereinafter contained and on the part of the said Corporation to be performed, the said grantees for themselves, their heirs, executors, administrators and assigns do, and each of them for himself, his heirs, executors, administrators and assigns doth, covenant with the said Corporation, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators and assigns, and the said Corporation, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Corporation in manner following, that is to say :—

1. The said Corporation grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words “the said grantees”, the right to construct, maintain and use a tramway or tramways, with single

¹This expression shall stand unmodified—*see*. para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by Ben. Act III of 1899 which again was repealed and re-enacted by the Calcutta Municipal Act, 1928 (Ben. Act III of 1928). Ben. Act. III of 1928 was further repealed and re-enacted by the Calcutta Municipal Act, 1951 (Wast Ben. Act XXXIII of 1951).

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or duple lines, and with all necessary sidings; turn-outs, connections and lines of whatever nature which may be required to connect the said tramway or tramways with the depots of the said grantees (but in the case of sidings and turn-outs only in such places as the said Corporation may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Corporation :—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghat Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lal Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street, and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurumtollah Street and passing along Dhurumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghat Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road and along Elliott's Road and Wellesley Street and joining tramway No. 5 in Dhurumtollah and tramway No. 1, in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2 :

Provided that without the special sanction of the Corporation (Commissioners in special general meeting) there shall not be a double line in the following places :—

In tramway No. 1, Colootollah Street.

Ditto „ 2, the whole.

Ditto „ 6, Elliott's Road.

Ditto „ 7, the connecting line.

These lines are particularly delineated on a plan accompanying this agreement, and signed by the Engineer to the Corporation and one of the said grantees.

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2. The said grantees shall, moreover (subject to clauses 3 and 4), have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality on the terms contained in these presents :

Provided always that if the said grantees shall at any time or times refuse or neglect for three months to accept any proposal by the said Corporation for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1 which the said Corporation may consider necessary or desirable, it shall be lawful for the said Corporation to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

3. The said grantees shall construct in such a manner as to be available for use at least six miles of the tramways mentioned in clause 1 within three years from the passing of the necessary Act by the Legislature, and they shall, before the expiration of the fourth year, give notice in writing to the said Corporation of the lines they intend to construct during the fifth year, and, failing the observance by the said grantees of the terms of this clause it shall be lawful for the said Corporation to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining unconstructed.

4. If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more of the lines hereinbefore in clause 1 specified unconstructed, and if the said Corporation shall not have exercised the rights conferred on them by clause 3, the said Corporation may call upon the said grantees to construct the line or lines ; and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their powers granted in this concession shall, so far as relates to that line, cease, and the said Corporation may make arrangements with other persons for the construction of the same, and in such last-mentioned case the other parties, to whom the said concession or any contract shall be granted, shall have the privilege of running round the circle to be constructed by the said grantees, namely, by way of Koila Ghat Street, Strand Road, Fairlie Place and Clive Street, free of toll, and, in the event of the said grantees having failed to construct the six miles of tramway provided for in the preceding clause, such other parties as last aforesaid shall have a like privilege of running over any part of any of the tramways No. 1 to No. 7 abovementioned in part constructed by the grantees to any other part of the same tramway which may have been constructed by the said other parties :

Provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the said grantees, and shall conform to such rules for the regulation of the traffic as may be drawn out by the said grantees and approved of by the said Corporation :

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Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the said grantees' lines :

Provided also that, if the said grantees shall offer any obstruction or fail to afford reasonable facilities, to enable the said parties to whom any concession or contract shall be made or given as aforesaid to exercise the privilege of using the lines of the said grantees as aforesaid, it shall be lawful for the said Corporation forthwith to make such rules with reasonable penalties for the breach thereof as they may think advisable for the purpose of regulating the use of the said lines and the traffic thereon.

5. Any tramway or tramways to be constructed under this agreement shall be constructed on the metre-gauge of 3 feet 3 $\frac{3}{4}$ inches, or on such other gauge not exceeding 4 feet 8 $\frac{1}{2}$ inches as may be mutually agreed upon, and especially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the said Corporation and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Corporation.

6. If the said Corporation shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized is laid or authorised to be laid, the grantees shall alter or (as the case may be) lay their rails, so that the uppermost surface thereof shall be on a level with the surface of the road so altered :

Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

7. The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable : provided that no steam-carriages may be used without the special consent of the Corporation (Commissioners in special general meeting) ; and provided also that the Corporation (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

8. The sleepers, rails, materials, implements and erections placed and erected by the said grantees or their assigns on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, but they shall not remove or displace the same or any of them or any part or parts thereof without the consent in writing of the said Corporation. No person other than the grantees, or persons authorized so to

[Ben. Act I*(Schedule.)*

do under clause 4 thereof, may use upon tramway or tramways made under this agreement, or under any agreement entered into under clause 4 hereof, carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

9. The said grantees or their assigns shall have power from time to time to fix the rates of fares for carrying persons and goods in the said cars or carriages :

Provided that the rate of fare for each person or parcel shall for any distance not over three miles not exceed three annas and shall not for any greater distance exceed the same proportion.

10. The said grantees may (for the purpose of constructing and maintaining any tramways under this agreement) under such superintendence as is hereinafter specified, open and break-up the soil and pavement of the several public or other streets (as defined in the Calcutta Municipal Consolidation Act, 1876)¹ and bridges in the City of Calcutta, and therein lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges, and do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions :—

Ben. Act
IV of 1876.

1st.—They shall give to the said Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees or their assigns shall pay all reasonable expenses unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the said Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks, at the most, unless the said Corporation otherwise consent in writing, complete the work for which the said

¹Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which again was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923). Ben. Act III of 1923 was once again repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951). The reference in the text should now be construed as a reference to the Act of 1951—see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), sec. 10.

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street or bridge shall be broken up and fill in the ground, and make good the surface, and to the satisfaction of the said Corporation restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall make good all damage done to the gas and water-pipes and sewers whether belonging to the Corporation or to private individuals by the disturbance thereof.

6th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

11. The said grantees shall, at their own expense, at all times maintain and keep in good condition and repair to the reasonable satisfaction of the said Corporation, the rails of which any of the tramways shall for the time being consist, and also so much of any such street or bridge whereon any tramway belonging to them is laid as lies between the rails of the tramway, and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the said Corporation.

12. In exercising the powers given to them by clauses 10 or 11 the said grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

13. If the said grantees shall commit any breach of clauses 10 or 11 or 12, it shall be lawful for the said Corporation in their discretion, where such breach shall be in the execution of any work or repairs, at any time after seven days' notice to the said grantees, themselves to do and execute such work of repairs, and the expense incurred by the said Corporation in so doing, including the cost of superintendence, shall be repaid to them by the said grantees, together with interest at the rate of eight *per cent. per annum* and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

14. If any person or persons sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling stock or other properties of the said grantees or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 or 11, the same shall be made good by the said grantees,

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and in the event of any suit being instituted against the said Corporation in respect of any of the matters hereinbefore mentioned the said grantees shall, within fourteen days from receipt of a notice thereof from the said Corporation, settle the same ; but if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Corporation against all losses, damages and expenses in respect thereof :

Provided always that, if the said grantees fail to settle such suit or to indemnify the said Corporation as is hereinbefore provided, it shall be lawful for the said Corporation to settle the same without any consent or concurrence on the part of the said grantees, and the sum which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 *per cent. per annum* from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

15. If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Corporation, without any previous notice to the said grantees, to remove the tramway or part thereof so discontinued, and the said grantess shall pay to the Corporation the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made, and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

16. The said grantees will, if required by the said Corporation, before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents deposit in an approved bank in Calcutta in the name of the said Corporation the sum of Rs. 5,000, or, in their option, promissory notes of the ¹[Central Government] or municipal bonds of the nominal value of Rs. 5,000 and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due :

Provided nevertheless that the said Corporation shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or out of the proceeds of sale of the said notes all moneys to which they may be entitled under any clause or clauses of these presents.

17. In consideration of the concession hereby granted the said grantees will pay to the said Corporation rent at the several rates hereinafter specified, namely, from the beginning of the first to the end of the ninth year, at the rate of Rs. 3,000 *per annum* per mile of double line and Rs. 2,000 *per annum* per mile of single

¹See foot-note 2 on page 399, *ante*.

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(Schedule.)

line ; from the beginning of the tenth to the end of the thirteenth year, a rent at the rate of Rs. 3,250 *per annum* per mile of double line and Rs. 2,250 *per annum* per mile of single line ; from the beginning of the fourteenth year to the end of the seventeenth year, a rent at the rate of Rs. 3,500 *per annum* per mile of double line and Rs. 2,500 *per annum* per mile of single line ; from the beginning of the eighteenth to the end of the twenty-first year, a rent at the rate of Rs. 3,750 *per annum* per mile of double line and Rs. 2,750 *per annum* per mile of single line ; and from the beginning of the twenty-second year, a rent at the rate of Rs. 4,000 *per annum* per mile of double line and Rs. 3,000 *per annum* per mile of single line. And the rents aforesaid shall be payable half-yearly and shall from a first charge on the undertaking, and the date on which such rent on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic :

Provided always that no lines or sidings over which passengers or goods are not carried for hire, connecting the traffic lines with the tables, carriage-sheds or depots or other property of the grantees shall be included in mileage for which rent shall be payable.

18. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of eight *per cent. per annum* from the due date until payment.

19. In consideration of the premises the Corporation shall allow to be deducted from the rent payable under this agreement a sum equal to the amount levied upon the grantees, as the municipal taxes upon their horses, carriages and tramway lines (but not on their depots and buildings or any other property or effects).

20. From and after the commencement of the fifteenth year of this contract to the end of the twenty-first, the said grantees shall not be at liberty to enter upon any fresh engagements or expenditure which would increase their capital account in connection with this contract, without first notifying their intention to the said Corporation and obtaining their approval thereof and sanction thereto in writing.

21. The corporation shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this contract upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years, upon similar notice being given and the consideration for such purchase shall be a cash payment of one and two-fifths on the amount of the invested capital of the said grantees or securities of the ¹[Central Government] or securities the interest whereon shall have been guaranteed

¹See foot-note 2 on page 399, *ante*.

(Schedule.)

by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce at the rate of interest current on such securities seven *per cent. per annum* on the amount of the said invested capital, and, if the consideration for such purchase shall be given in such securities as aforesaid, the said grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

22. In the event of the said Corporation failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

23. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes to be hereafter fixed by the said Corporation or under clauses 1, 3 and 4 of these presents, and to the works connected with or incidental to such tramways.

24. The date of the commencement of this concession shall be the date on which notice of the sanction of the Government of Bengal to the same shall be given to the said grantees.

25. Unless the said grantees shall have commenced the work of laying down the said tramway within twelve months from the date of the recognition of this agreement by an Act of the Bengal Legislature, the said Corporation shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways.

26. Nothing in this agreement shall take away or affect any power which the Corporation may have by law to open, or break up or to widen, alter, divert or improve any street or road :

Provided always—

1st.—That they shall cause as little detriment or inconvenience to the grantees as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' previous notice in writing to the said grantees.

3rd.—That before they commence any work, whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work.

of 1880.]

(Schedule.)

4th.—That, in the event of their so interfering with the stopping the running of any tramway under this clause, and abatement proportioned to the length of road over which, and time during which, running is stopped shall be made from the rent hereinbefore reserved and payable by the said grantees.

5th.—That any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

27. If any doubt, difference or dispute shall arise between the said grantees and the said Corporation touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said grantees and the other by the said Corporation within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators and the decision of such arbitrators, if they agree, or of such umpire if they disagree shall be final, and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

28. The words “the said Corporation” used in this agreement shall include the present Corporation and their successors, and also all persons empowered by the said Corporation or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Corporation are hereinbefore authorized or empowered to do or exercise.

1. Corrected up

7. 3. 83

Dr
8/3/83

Bengal Act V of 1880

(THE BENGAL VACCINATION ACT, 1880.)

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Bengal Act V of 1880

(THE BENGAL VACCINATION ACT, 1880.)¹

SUPPLEMENTED ...	{ Ben. Act III of 1885. Ben. Act II of 1890.
AMENDED ...	{ Ben. Act II of 1887. Ben. Act I of 1939.
REPEALED IN PART AND AMENDED	{ Ben. Act II of 1890. Ben. Act II of 1911.
ADAPTED	(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948. (c) The Adaptation of Laws Order, 1950.

(26th May, 1880.)²

An Act to make vaccination compulsory.

PRELIMINARY.

Whereas it is expedient to make vaccination compulsory in³ [the town of Calcutta and the port of Calcutta] and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal⁴ to which this Act may be hereafter extended ;

Preamble.

It is hereby enacted as follows :—

1. This Act may be called the Bengal Vaccination Act, 1880 ;

Short title.

It applies in the first instance only to⁵ [the town of Calcutta and the port of Calcutta] as hereinafter defined ;

Extent.

But the⁶ [State Government] may, by notification published in the⁷ [Official Gazette], declare⁸ [its] intention to extend this Act, or any of its provisions, to any town or selected local area in the territories administered by⁹ [it].

Power to extend Act to towns and local areas.

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1880, Part IV, page 62 ; for Report of Select Committee, see *ibid*, page 117 ; and for proceedings in Council, see *ibid*, Supplement, pages 270, 311, 405 and 406.

This Act applies in this form only to areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act II of 1911), is in force.

²These words were substituted for the words "the town, port and suburbs" by secs. 2 and 3, respectively, of the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act II of 1890).

³This includes the present State of West Bengal, and other territory.

⁴The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵These words were substituted for the words "*Calcutta Gazette*," by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶This word was substituted for the word "his" by paragraph 5(2), *ibid*.

⁷This word was substituted for the word "him" by paragraph 6(2), *ibid*.

[Ben. Act V

(Section 2.)

Objection
to such
extension.

Any inhabitant of such town or area objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Government ^{1*} and the ²[State Government] shall take such objection into consideration.

Procedure
thereon.

When six weeks from the said publication have expired, the ³[State Government], if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in ³[its] opinion they are insufficient, may by like notification effect the proposed extension.

The ³[State Government] shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such manner, as ⁴[it] may direct.

Commence-
ment.

This Act shall come into force from the day⁵ on which it may be published in the ⁶[*Official Gazette*]; with the assent of ⁷[the Governor-General]; but its operation in any place may at any time be suspended by the ³[State Government] by notification in the said Gazette.

Interpre-
tation
clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Town of
Calcutta."

⁸["town of Calcutta" means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888⁹];

Ben. Act II
of 1888.

"Port of
Calcutta."

"port of Calcutta" means the Port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act V of 1870, ¹⁰[or any other law for the time being in force.]

11* * * *

¹The words "of Bengal" were omitted by para. 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

²See foot-note 4 on page 413, *ante*.

³This word was substituted for the word "his" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴This word was substituted for the word "he", *ibid*.

⁵The 26th May, 1880—see the *Calcutta Gazette* of 1880, Pt. III, page 49.

⁶See foot-note 5 on page 413, *ante*.

⁷This expression shall stand unmodified, *vide* para. 8 and the Eleventh Schedule of the Adaptation of Laws Order, 1950.

⁸This definition was substituted for the original definition by sec. 4(1) of the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act II of 1890).

⁹See now the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), sec. 5(11).

¹⁰These words were added by sec. 4(2) of the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act II of 1890). Ben. Act V of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act III of 1890).

¹¹The definition of "Suburbs of Calcutta" was repealed by sec. 4(3) of the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act II of 1890).

of 1880.]

(Section 3.)

"parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child ;	"parent."
"guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf ;	"guardian."
"public vaccinator" means any vaccinator appointed under this Act, or any person duly authorized to act for such public vaccinator ;	"public vaccinator."
"Inspector" means a person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act ;	"Inspector."
"medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery ;	"medical practitioner."
"unprotected child" means a child who has not been protected from small-pox by having had that disease naturally or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination ;	"unprotected child."
"unprotected person" includes a child who has no parent or guardian and means a person who has not been protected from small-pox by having had that disease naturally or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination ;	"unprotected person."
"section" means a section of this Act.	"section."

VACCINATION OF CHILDREN.

3. The parent or guardian of every child born in any place to which this Act applies, as above provided, or may hereafter be extended shall, within six months after the birth of such child, and
- the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid,
- shall, within six months after such child's arrival in such place,

Parent or guardian of children born in compulsory limits and of unprotected children brought to reside in such limits,

[Ben. Act V**(Sections 4, 5.)**

must procure their vaccination.

take it, or cause it to be taken, to a public vaccine-station to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner or public vaccinator ;

Unprotected child may be required to be vaccinated within fifteen days.

¹[and the parent or guardian of every unprotected child may, whenever the Superintendent of Vaccination, as hereinafter appointed, shall deem it expedient, be served with a notice, in the form prescribed in the first schedule of this Act, requiring the parent or guardian, within fifteen days after the service of the same, to take such child, or cause such child to be taken, to a public vaccine-station to be vaccinated, or within such period as aforesaid to cause it to be vaccinated by some medical practitioner or public vaccinator ;

and every such parent or guardian shall, within the said period, comply with the requisition].

Public vaccinator bound to vaccinate all children brought to him.

and any public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination at such vaccine-station, or who is requested to vaccinate such child elsewhere than at a public vaccine-station, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

4. At an appointed hour on a day not less than seven or more than ten days after the operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected by the operator (if a medical practitioner) or by an Inspector, that the result of the operation may be ascertained ;

and when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above-mentioned whether he is requested to do so or not.

Repetition of vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Inspector or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by an Inspector for anything done by him under this section.

If child be unfit for vaccination certificate in Form A to be given,

5. If any Inspector or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

¹This clause was inserted by sec. 8 of the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act II of 1887).

of 1880.]

(Sections 6, 7.)

The said certificate shall remain in force for one month only, but shall be renewable for successive periods of one month until the Inspector or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C hereto annexed according to the provision of section 7 if warranted by the result.

which shall remain in force for one month, but shall be renewable.

6. (1) If any Inspector or medical practitioner finds—

(a) that a child brought for vaccination has already had small-pox, or

(b) that a child who has been three times unsuccessfully vaccinated is insusceptible of successful vaccination,

he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form in Schedule B hereto annexed, or to the like effect.

Procedure where child is found to have had small-pox or to be insusceptible of successful vaccination.

(2) If the Superintendent is satisfied that such child has already had small-pox or is insusceptible of successful vaccination, he shall endorse such certificate.

(3) Such endorsement shall operate as an exemption from liability to vaccination,—

(i) in case (a) in sub-section (1)—absolutely, and

(ii) in case (b) in that sub-section—for a period of twelve months.

(4) Upon the expiration of the said period, the parent or guardian of such child shall forthwith cause the child to be vaccinated again ;

and if an Inspector or a medical practitioner finds after two further unsuccessful vaccinations that the child is insusceptible of successful vaccination, he shall deliver to the parent or guardian a further certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect ;

and, if the Superintendent of Vaccination be again satisfied that the child is insusceptible of successful vaccination, he shall endorse such certificate and such endorsement shall operate as an absolute exemption from liability to further vaccination.

7. When a public vaccinator or medical practitioner has performed the operation of vaccination upon any child, and an Inspector or such practitioner has ascertained that the same has been successful,

Provision for giving certificates of successful vaccination.

such Inspector or practitioner, as the case may be, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed or to the like effect, certifying that the said child has been successfully vaccinated.

(Sections 8—13.)

No fee to be charged for vaccination at a station or for certificates. Proviso.

8. No fee or remuneration shall be charged by any Inspector to the parent or guardian of any child for any such certificate as aforesaid, nor by any public vaccinator for any vaccination done by him in pursuance of this Act at a public vaccine-station.

But, when a public vaccinator attends at the request of the parent or guardian elsewhere than at a public vaccine-station for the purpose of vaccinating a child, he shall be paid a fee not exceeding eight annas ; such fee to be devoted to the purposes in the next succeeding section mentioned.

Fees how to be appropriated.

9. All such fees shall, in Calcutta, be paid in by the public vaccinator to the credit of the Corporation of the Town of Calcutta,¹ and be by them appropriated for the purposes of this Act.

In places outside Calcutta such fees shall be appropriated as the ²[State Government] may from time to time direct.

Superintendent of Vaccination or his assistants may inspect vaccination of child.

10. The Superintendent of Vaccination, as hereinafter appointed, or any of his assistants, or any Inspector may, from time to time, inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner ; and may, if he think fit, direct that such child be forthwith again vaccinated.

VACCINATION OF UNPROTECTED PERSONS.

Unprotected persons to be vaccinated.

11. Every unprotected person may, whenever the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him, within fifteen days after the service of the same, to submit himself to a public vaccinator or medical practitioner to be vaccinated ; and every such person shall, within the said period, submit himself to a public vaccinator or medical practitioner for vaccination.

Former sections applicable.

12. The provisions of sections 3 to 10 (both inclusive) shall apply, with the necessary alterations, to the case of unprotected persons.

Health Officer of Port may cause vaccination of unprotected persons on their arrival.

13. The powers conferred by sections 11 and 30 upon the said Superintendent of Vaccination may, in the case of unprotected persons arriving in the port of Calcutta, be exercised by the Health Officer of the said port immediately upon their arrival.

¹The name of this body is now "the Corporation of Calcutta"—see the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), sec. 4.

²See foot-note 4 on page 418, ante.

of 1880.]

(Sections 13A, 14.)

¹[If a vessel arrives in the said port of Calcutta having on board any person suffering from the disease of small-pox, the said Health Officer may, if he deem it expedient in order to prevent the risk of the contagion of small-pox being conveyed into the town or suburbs of Calcutta, require any unprotected person on board such vessel to submit himself forthwith to be vaccinated; and every such person shall, before leaving the vessel, submit himself to the said Health Officer, or any person duly authorized to act in this behalf, for vaccination :

Health Officer may, in certain cases, require immediate vaccination of unprotected person on board.

Provided that nothing herein contained shall apply to any vessel belonging to, or in the service of, "[the Government] or to any vessel belonging to any foreign Prince or State.]

Proviso.

MISCELLANEOUS.

13A. Every person occupying any house, enclosure, vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner, or public vaccinator or Inspector duly authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not, and as, having regard to the customs of the country, may be reasonable.

Occupier of house etc., to allow access.

Whenever it is necessary to ascertain whether a woman is protected or not, the investigation shall be conducted by a female with strict regard to the habits and customs of the country.

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

14. For the purposes of this Act, the Corporation of the town of Calcutta³ (hereinafter called the Corporation) shall, subject to the approval of the ⁴[State Government], appoint such stations for the performance of vaccination as they shall, from time to time, deem fit.

Public vaccine-stations.

Such stations shall be called "public vaccine-stations".

The Corporation shall appoint such public vaccinators and vaccination establishments for carrying out the purposes of this Act as they shall, from time to time, deem fit.

Appointment of public vaccinators, etc.

¹This paragraph and proviso were added by sec. 5 of the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act, II of 1887).

³The words "the Crown" were first substituted for the words "Her Majesty or the Government of India" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(7) of the Adaptation of Laws Order, 1950.

²See foot-note 1 on page 418, *ante*.

⁴See foot-note 4 on page, 413, *ante*.

[Ben. Act V

(Sections 15—19.)

Notifica-
tion of
stations
and hours
of attend-
ance.

The positions of the public vaccine-stations fixed under the provisions of this section, and the days and hours of the public vaccinators' attendance at each station, shall be published, from time to time, in such manner as the Corporation may direct.

Power of
Corporation
to make
rules.

15. The Corporation may, from time to time, make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination establishments aforesaid, the payment of public vaccinators and Inspectors, and the realization and scale of fees under this Act.

Superin-
tendent of
Vaccina-
tion.

16. The Health Officer for the town of Calcutta shall be *ex-officio* Superintendent of Vaccination for the said town.

Such officer, subject to the orders of the ¹[State Government], shall have a general control over all the proceedings of public vaccinators and Inspectors, and shall perform such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the ¹[State Government].

Assistant
Superin-
tendents.

The ¹[State Government] may appoint, if necessary, one or more assistants to the Superintendent, and, from time to time, remove any such assistant.

Expenses
of esta-
blishments
to be a
charge on
the Corpo-
ration.

17. The expenses of all vaccination establishments under this Act, and of the supply of lymph, in Calcutta, shall, unless the ¹[State Government] otherwise direct, be defrayed by the Corporation.

REGISTRATION.

Registrar of
Births to
give notice
of require-
ment of vac-
cination.

18. On the registration of the birth of any child under the provisions of ²[Chapter XXXI of the Calcutta Municipal Act, 1923,] or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect; and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Ben. Act
III of 1923.

Duplicates
of all
certificates
to be
transmit-
ted to the
Registrar.

19. Every Inspector or medical practitioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered;

¹ See foot-note 4 on page 418, *ante*.

² These words and figures were substituted for the words and figures "Chapter X of the Calcutta Municipal Consolidation Act, 1876," by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939). As the Calcutta Municipal Act, 1923, was repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), the reference should now be to Chapter XXXI of the last mentioned Act.

of 1880.]

(Sections 20—24.)

or, if that be not known to him, or if the child was born out of the town of Calcutta, or his birth has not been registered in the said town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

20. The Registrar of Births shall keep a book, in such form as may, from time to time, be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

Registrar to keep a vaccination notice and certificate book,

B.m. Act III
of 1923.

21. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the ¹[Calcutta Municipal Act, 1923], or of any other law for the time being in force, with such additional columns as shall, from time to time, be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

and also a duplicate register of births with entries concerning vaccination,

22. He shall also keep a register of postponed vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate if he receives more than one; and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

and also a register of postponed vaccinations.

23. Every Registrar shall transmit, on or before the fifteenth of every month, to the Superintendent of Vaccination, a return, in such form as may, from time to time, be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him, in pursuance of the provisions of this Act, during the last preceding month.

Transmission of returns to Superintendent.

24. The ²[State Government] may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22 and 23 shall be performed by any other person appointed by the ²[State Government].

State Government may direct any person to perform duties of Registrar.

¹These words and figure were substituted for the words and figure "Calcutta Municipal Consolidation Act, 1876", by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939). As the Calcutta Municipal Act, 1923, was repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), the reference should now be to the last mentioned Act.

²See foot-note 4 on page 413, *ante*.

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

Powers of Corporation may be exercised in mufassal by Magistrate of the district ; and of Superintendent of Vaccination by Civil Surgeon.

25. In any municipality other than the town of Calcutta, and in any local area to which this Act may hereafter be extended, the Magistrate of the district may exercise all or any of the powers by this Act conferred upon the Corporation ;

and the Civil Surgeon of the district, or such other officer as the ¹[State Government] may, from time to time, appoint in that behalf, shall exercise the powers and perform the duties by the Act assigned to the Superintendent of Vaccination.

PROSECUTIONS AND OFFENCES.

Magistrate may make an order for the vaccination of any unprotected child under fourteen years.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe, from the statement of an informant or otherwise, that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him ; and if the Magistrate shall find, after such inquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of such order.

If the child is at any time produced before him, the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian, for any recusancy under this clause, with fine which shall not exceed five rupees.

If, at the expiration of the time appointed by the Magistrate, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

Proviso for costs to persons improperly summoned.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant, if any, and may order such informant to pay to such persons such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him ;

¹See foot-note 4 on page 418, *ante*.

of 1880.]

(Sections 27—29.)

Provided also that nothing in this section shall be held to compel production before a Magistrate of any female child above the age of eight years.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to one hundred rupees and to a further fine of twenty-five rupees for every day during which the offence continues :

Penalty for not producing a child.

Provided that the aggregate amount of fine for such offence shall not exceed one thousand rupees.

28. Whoever, in contravention of this Act,—

Penalty for neglect to be vaccinated.

(a) neglects without reasonable excuse to submit himself, within fifteen days after the service on him of the notice prescribed by section 11, to a public vaccinator or medical practitioner to be vaccinated, or to the operator (if a medical practitioner) or to an Inspector after vaccination to be inspected, or

(b) neglects without reasonable excuse to take or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or

Penalty for neglect to take child to be vaccinated, etc.

(c) neglects to fill up and sign and give to any person or the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births, ¹[or]

²[d] refuses without reasonable excuse to submit himself to be vaccinated when required so to do by the Health Officer exercising the powers conferred upon him by section 13,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making or signing false certificate.

Act XLV
of 1860.

¹This word "or", was added by sec. 7 of the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act II of 1887).

²Clause (d) was added by sec. 7, *ibid.*

[Ben. Act V.]

(Sections 29A—32.)

Penalty for obstructing public vaccinator or Inspector in the discharge of his duties.

¹29A. Whoever voluntarily obstructs any public vaccinator or Inspector in the discharge of the duties assigned to him as such shall be punished for each such offence with fine which may extend to fifty rupees.

Vexatious entry by public vaccinator or Inspector.

¹29B. Any public vaccinator or Inspector who vexatiously and unnecessarily enters any house, enclosure, vessel, or other place, on pretence of ascertaining whether the inmates, or any of them, are protected or not, shall, for every such offence, be punished with fine which may extend to fifty rupees.

Prosecutions to be instituted by State Government or Superintendent of Vaccination.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law for the time being in force for the trial of offences; but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, the ²[State Government] or the Superintendent of Vaccination.

Prosecution for neglect.

31. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect;

but, if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

Annual return to be made of the number of children vaccinated, etc.

32. It shall be the duty of the Superintendent of Vaccination to show in an annual return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed, from time to time, by the ¹[State Government] or the Corporation.

¹Secs. 29A and 29B were inserted by sec. 8 of the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act II of 1887).

²See foot-note 4 on page 418, *ante*.

of 1880.]

(Section 33 and the First Schedule.)

33. The ¹[State Government] may, from time to time, make rules or issue orders, consistent with this Act,—

State Government to make rules.

- (a) determining the qualifications to be required of public vaccinators and Inspectors ;
- (b) regulating the scale of fees to be paid outside the town of Calcutta ;
- (c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine-stations and are too poor to pay fees ;
- (d) providing for the supply of lymph ;
- (e) regulating the books and forms to be kept by the public vaccinators and Inspectors or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act ; and generally
- (f) for the guidance of public vaccinators and Inspectors and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the ²[Official Gazette].

³THE FIRST SCHEDULE.

(See Section 3.)

To

(Here insert the name of the parent or guardian.)

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to take, or cause (here insert the name of the child), the child of (here insert the name of the father), to be taken to a public vaccine-station for vaccination, or to cause it to be vaccinated by some medical practitioner or public vaccinator within fifteen days from the service of this notice, and that in default of so doing you will be liable to a fine of fifty rupees.

The public vaccine-station nearest your house is at the days and hours for vaccination at that station are as follows :—

(Here insert the days and hours when the public vaccinator is in attendance.)

On the said (here insert the name of the child) being brought before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days, and within the hours prescribed for public vaccination at such station, the said (here insert the name of the child) will be vaccinated free of charge.

¹ See foot-note 4 on page 413, ante.

² See foot-note 5 on page 413, ante.

³ This Schedule was annexed to this Act by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act II of 1887), sec. 3, as amended by the Amending Act, 1897 (V of 1897).

[Ben. Act. V]

(Schedules A, B and C.)

If you wish the said *(here insert the name of the child)* to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of .

Dated the of 19 .

*Superintendent of Vaccination,
or Civil Surgeon (as the case may be).*

SCHEDULE A.*(See Section 5.)*

I, the undersigned, hereby certify that, in my opinion, the child of , resident at , is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed for the period of one month from this date.

Dated day of 19 .

(Signature of Medical Practitioner or Inspector.)

SCHEDULE B.*(See section 6.)*

I, the undersigned, hereby certify that , the child of , residing at , has already had small-pox (or as the case may be) that I have (or a public vaccinator has) three times (or twice, as the case may be) unsuccessfully vaccinated , the child of , residing at , and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of 19

(Signature of Medical Practitioner or Inspector.)

(Endorsement by Superintendent of Vaccination.)

SCHEDULE C.*(See section 7.)*

I, the undersigned, hereby certify that , the child of , age , resident at , has been successfully vaccinated by me (or by a public vaccinator.)

Dated this day of 19 .

(Signature of Medical Practitioner or Inspector.)

of 1880.]

(Schedules D, E.)

SCHEDULE D.

(See section 11.)

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing, you will be liable to a fine which may amount to fifty rupees.

The public vaccine-station nearest your house is at .

The days and hours for vaccination at that station are as follows :

(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

If you wish to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the of 19 .

*Superintendent of Vaccination,
or Civil Surgeon (as the case may be).*

SCHEDULE E.

(See section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

TAKE notice that the child of *(here, enter the mother's name)*, whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within six months from the date of its birth, under penalty.

The public vaccine-station nearest to the house in which the child was born is at No, . The days and hours for vaccination at that station are as follows :—

(Here insert days and hours when the public vaccinator is in attendance.)

On your taking or causing the child to be taken to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

[Ben. Act V of 1880.]

(Schedule F.)

If you wish to have the child vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of .

You should be careful to have one of the annexed forms of certificate filled in by an Inspector, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by an Inspector, free of charge.

Dated the of 19 .

Registrar of Births.

SCHEDULE F.*(See section 22.)**Register of Postponed Vaccinations for the District of*

Consecutive number.	Name of child.	Birth.		Date of certificate of postponement.	Signature of Registrar.
		year.	Number of entry in register.		
1	Ram chandra Das.	1878	12	1878. May 10	H. O.

Bengal Act IX of 1880

(THE CESS ACT, 1880.)

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Bengal Act IX of 1880

(THE CESS ACT, 1880.)¹

AMENDED

Ben. Act II of 1881.
Ben. Act VII of 1881.
Ben. Act V of 1908.
Ben. Act I of 1914.
Ben. Act V of 1915.
Ben. Act XIV of 1932.
Ben. Act XI of 1934.
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Ben. Act III of 1885.
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ADAPTED

(a) The Government of India (Adaptation of Indian Laws) Order, 1903.
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(c) The Adaptation of Laws Order, 1950.

(13th October, 1880.)

An Act to amend and consolidate the Law relating to rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

WHEREAS it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal², and to the levy of a road cess and a public works cess on immovable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess ;

Preamble.

It is hereby enacted as follows :—

PRELIMINARY.

1. This Act may be called the Cess Act, 1880 ;

Short title.

(Commencement.)—*Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).*

2. This Act shall take effect at once in every district³ and part of a district in which Bengal Act X of 1871⁴ (*an Act to provide for local rating for the construction and maintenance of roads and other means of communication*) and Bengal Act II of 1877⁴ (*an Act to provide for the levy of a cess for the construction, charges and maintenance of provincial public works*) may be in force on the date of the commencement of this Act.

Extent.

¹LEGISLATIVE PAPERS.—For Proceedings in Council, see the *Calcutta Gazette* of 1879, Supplement, page 1508 ; *ibid.*, page 180, Supplement, pages 45, 291, 323, 379, 403 and 948.

²This includes the present State of West Bengal and other territory.

³These now comprise all districts which form the State of West Bengal.

⁴Ben Acts X of 1871 and II of 1877 have been repealed by sec. 3 of the present Act.

[Ben. Act IX

(Preliminary.—Sections 3, 4.)

[The ¹[State Government] may, by notification, in the ²[Official Gazette], extend its provisions to any other district or part of a district situate in the territories for the time being administered by ³[it]; and this Act shall take effect accordingly therein from the date specified in such notification :]

Proviso.

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of ⁴[the High Court at Calcutta], or within the limits of any ⁵[municipality under the Bengal Municipal Act, 1932].

Ben. Act
XV of
1932.Power to
exempt
districts
from
operation
of Act.

The ¹[State Government] may, by notification in the ²[Official Gazette], exempt any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

3. [Repeal of District Road Cess Act, 1871, and Provincial Public Works Act, 1877.]—Rep. by sec. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Inter-
pretation-
clause.

4. In this Act, unless there be something repugnant in the subject or context,—

“Annual
value of
land,
etc.”

⁶“annual value of any land, estate or tenure” means the total ⁷* * * rent which is payable, or, if no ⁷* * * payable, or, if no revenue or rent is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating raiyats of such

“Annual
value of
land,
etc.” :

¹The words “Provincial Government” were originally substituted for the word “Lieutenant-Governor” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “State” was substituted for the word “Provincial” by paragraph 4 (1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words “Calcutta Gazette,” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³This word was substituted for the word “him” by paragraph 5 (2), *ibid.*

⁴These words were substituted for the words “The High Court of Judicature at Fort William in Bengal,” by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

⁵These words and figures were substituted for the words and figures “first or second class municipality under the Bengal Municipal Act, 1876” by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶This definition is in force in this form in Western Bengal.

The differences in the definition as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

See also foot-note under “Local Extent” on page 175, *ante*.

⁷The words “revenue or” were repealed in Western Bengal by sec. 2 (1) of the Bengal Cess (Amendment) Act, 1930 (Ben. Act IV of 1930).

⁸This definition is in force, in this form in Eastern Bengal.

See also foot-note under “Local Extent” on page 175, *ante*.

of 1880.]

(Preliminary.—Section 4.)

land, estate or tenure, or by other persons in the actual use and occupation thereof : land, estate or tenure, or by other persons in the actual use and occupation thereof :

¹Explanation.—For the purpose of the foregoing definition, ~~whenever~~ is lawfully payable or deliverable, or would, on a reasonable assessment, be lawfully payable or deliverable, in money or in kind, directly to the Government,—

- (a) by raiyats cultivating land in a Government estate—on account of the use or occupation of the land, or
- (b) by other persons in the actual use and occupation of land in such an estate.

shall be deemed to be "rent" :

"Commissioner" means the Commissioner of the Division :

"Commis-
sioner" :

"cultivating raiyat" means a person cultivating land and paying rent thereof not exceeding one hundred rupees *per annum* :

"Culti-
vating
raiya" :

Explanation.—When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the land-
lord's share of the crop calculated on an average of the three years next
preceding any valuation or re-valuation under this Act :

"district" means the local area to which a Collector is appointed and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof :

"District" :

"estate" means—

"Estate" :

- (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force ;

- (2) any land, other than the holding of a cultivating raiyat, the revenue or rent of which may be payable directly to any person specially appointed

Ben. Act
VII of
1876.

Page 437—

In section 4, before the definition of "district" or under the following definition, namely:— *insert* grant, lease

"despatch" "despatch", in relation to a coal mine, the holders means the quantity of coke and coal despatched from the coal mine; holders there-
s Act :

(Inserted by West Ben. Act XXIII of 1964, section 2.)

iyat :
rights to arise
permanently

"Holder of
an estate
or
tenure" :
"Hold-
ign" :
"Immov-
able pro-
perty" :

[No. 1, dated the 1st January, 1969.]
out of line

¹The Explanation applies only to Western Bengal. It was added by sec.
2(a) of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV. of 1910).

(Preliminary.—Section 4.)

fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings :

“Land” : “land” means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings :

“Part,” “chapter” and “section” : “Part,” “Chapter” and “section” mean respectively a Part, chapter and section of this Act :

“Schedule” : “Schedule” means a schedule to this Act annexed, and every such schedule shall be read as part of this Act :

“Tenure” : “tenure” includes every interest in land, whether rent-paying or not save and except an estate as above defined, and save and except the interest of a cultivating *raiyat* :

“The Collector” : “the Collector” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means—

(i) when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne ;

(ii) when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne ;

“The Collector of the district.” : “the Collector of the district” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district :

“The Settlement Officer” : ¹“the Settlement Officer” means the Revenue-officer appointed by the ²[State Government] under the designation of Settlement Officer or Assistant Settlement Officer,

¹This definition of “the Settlement Officer” applies only to Western Bengal. It was inserted by sec. 2(3) of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²The words “Provincial Government” were originally substituted for the words “Local Government” by paragraph 4(I) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “State” was substituted for the word “Provincial” by paragraph 4(I) of the Adaptation of Laws Order, 1950..

of 1880.]

(Part I.—Chapter I.—Imposition and Application of the Cesses.
Section 5.)

VIII of
1885.

for the purpose of preparing or revising records-of-rights, under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof,

and includes any officer appointed by the ¹[State Government] to maintain records-of-rights so prepared or revised.

Ben. Act
III of
1885.

²“District Board” means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885. “District Board”;

²“District Fund” means the fund formed under section 52 of the Bengal Local Self-Government Act of 1885. “District Fund”;

“Year” means the cess year as determined by the ³[Board of Revenue] under section 11. “Year”.

PART 1.

CHAPTER I.

IMPOSITION AND APPLICATION OF THE CESSES.

5. From and after the commencement of this Act in any district or part of a district, all immovable property situate therein except as otherwise in ⁴[section 2] provided, shall be liable to the payment of a road cess and a public works cess.

All immov-
able pro-
perty to be
liable to a
road cess
and public
works cess.

¹See foot-note 2 on page 438. *ante*.

²These definitions of “District Board” and “District Fund” were substituted for the definition of “the Committee” by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

³These words were substituted for the word “Lieutenant-Governor” by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁴This word and figure were substituted for the words and figures “sections 2 and 5” by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

In section 6,—

(1) for the words beginning with “shall be assessed on the annual value of lands” and ending with “ascertained respectively as in this Act prescribed”, substitute the following, namely:—

“shall be assessed—

(a) in respect of lands, on the annual value thereof,

(b) in respect of coal mines, on the annual despatches therefrom, and

(c) in respect of mines other than coal mines, quarries, tramways, railways and other immovable property, on the annual net profits thereof,

ascertained respectively as in this Act prescribed”;

(2) for the proviso, substitute the following proviso, namely:—

“Provided that the rate at which each such cess shall be levied for any year shall not exceed the rate of—

(i) six paise on each rupee of such annual value,

(ii) fifty paise on each tonne of coal of such annual despatches, or

(iii) six paise on each rupee of such annual net profits,

as the case may be.

Explanation.—For the purposes of this proviso one tonne of coke shall be counted as one and a quarter tonne of coal.”.

(Substituted by West Ben. Act XXIII of 1964, section 3.)

[No. 1, dated the 1st January, 1969.]

Applica-
tion of
proceeds of
public
works cess.

10. The proceeds of the public works cess ⁵[and all interest paid thereon] shall be paid into the public treasury.

* * * * *

¹The words “until provision to the contrary is made by the Central Legislature” were originally inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “Parliament” was substituted for the words “Central Legislature” by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

²See foot-note 1 on page 436, ante.

³The words “of Bengal” were omitted by Article 3 (1) of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴The words “and, together with other assets of such fund, shall be applied to the purposes mentioned in section 109” were omitted by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

⁵These words were inserted by sec. 2 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁶The rest of this section commencing with the words “and shall be applied” and ending with the words “may direct” was omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

¹ [Ben. Act IX
the Cesses.—

all be assessed
o the contrary
from mines,
able property

hall be levied
in the manner

hall be levied
half anna on
net profits

med to require
* *, from
excess of such
Collector by

liable to the
mcil.]—Omitted
(Adaptation of

istrict shall be
as hereinafter

of 1880.]

(Part I.—Chapter I.—Imposition and Application of the Cesses.—
Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Sections 11—13.)

11. The ¹[Board of Revenue] shall, by an order published in the ²[Official Gazette] fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

Power to
fix cess
year.

PART II.

Mode of Assessment.

CHAPTER II.

VALUATION OF LANDS.

12. Upon the commencement of this Act in any district or part of a district, the ³[Board of Revenue] may order that a valuation shall be made of such district or part of a district ; and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any revaluation as hereafter provided in this section ⁴* or at any time within twelve months previous to the expiration of such term,

Board of
Revenue
may order
valuation,
and revalua-
tion.

the ⁵[Board of Revenue] may, if ⁶they think fit, order that a re-valuation shall be made of any such district or part of a district, and such revaluation shall take effect from the beginning of such year as the ⁷[Board of Revenue] may direct.

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation ⁸[or re-valuation] under this Act ⁹* the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A

After five
years
holder of
estate or
tenure may
apply to
Collector
for re-
valuation,

¹These words were substituted for the word "Lieutenant-Governor" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²See foot-note 2 on page 436, *ante*.

³These words were substituted for the word "Lieutenant-Governor", for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Bengal Act V of 1915).

⁴The words "or in Chapter IIA" were repealed in Western Bengal, by sec. 8 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

⁵This word "they" in sec. 12, was substituted for the word "he" for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁶These words were inserted by sec. 8 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁷The words and figures "or Bengal Act X of 1871" were repealed by sec. 8 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 14, 15.)

contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly :

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

Proclamation to make return of lands to be issued.

14. Whenever the ¹[Board of Revenue] has ordered ²[under section 12] that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure, in the form in Schedule A contained, giving the particulars in such form set forth.

Publication of proclamation.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the ¹[Board of Revenue] may from time to time direct.

Re-valuation may be of particular estates or tenures only.

15. At any time at which the ¹[Board of Revenue] might order a re-valuation of a district or part of a district to be made as provided by section 12, ²[they] may, if ³[they] think fit instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

¹See foot-note 3 on page 441, *ante*.

²These words and figures within square brackets were inserted, for Western Bengal, by the Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and, for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

³This word was substituted for the word "he" for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 16, 17.)

16. Whenever any proclamation has been published as mentioned in section 14, in any district, and whenever the ¹[Board of Revenue] has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office of the Collector the return mentioned in section 14 ;

Notice to lodge returns.

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act X of 1871², either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

17. The notice mentioned in the last preceding section shall be in the Form No. I in Schedule B contained, or in the Form No. II in the said schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely :—

Form of notice and time for lodging returns.

In the case of Revenue-paying Estates and Rent-paying Tenures.

- | | |
|--|--|
| If the return relate to an estate or tenure which is liable to the payment of actual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure. | Within six weeks of the service of the notice. |
| If the return relate to any other estate or tenure, or to any share or interest therein. | Within three months of the of the notice. |

In the case of Revenue-free Estates and Rent-free Tenures.

- | | |
|--|---|
| If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure. | Within six weeks of the service of the notice. |
| If the return relate to any other estate or tenure, or to any share or interest therein. | Within three months of the service of the notice. |

The Collector may in his discretion extend the time allowed for lodging any such return.

¹ See foot-note 3 on page 441, *ante*.

² Ben. Act X of 1871 has been repealed by this Act—see sec. 3.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Sections 18—20.)*

Penalty for
omitting to
make
return.

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

No rent to
be recover-
ed till
return is
made.

19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same.

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

No rent to
be recover-
ed for land,
etc., not
mentioned
in return.

20. Every holder of an estate or tenure in respect of which a return has been made as required by this chapter shall be precluded from suing for or recovering —

- (a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 21, 22.)

or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return ;

- (b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return :

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return ; Proviso.

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required ;

and, as soon as the person in respect of whose estate or tenure, the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice ; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99. If returns not furnished, Collector to make valuation.

¹22. If the Collector is satisfied, for reasons to be recorded by him in writing, that any return made under this Act is untrue or incorrect, he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made : Valuation by Collector where return untrue or incorrect.

Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

¹Sections 22 and 23 which were in force in this form in Western Bengal, having been substituted by sec. 6 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) were substituted for the original sections 22 and 23 by sec. 2 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 23—27.)

Recovery
of expense
of such
valuation.

123. The expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made :

Provided that, where such return relates to lands for which no rent is payable by cultivating *raiya*ts to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

Person
returned as
cultivating
*raiya*t may
be served
with
notice.

24. The Collector may, whenever he may think fit cause a notice in the Form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating *raiya*t ; and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

If no
return
made,
Collector
may
ascertain
annual
value of
lands.

25. If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person ; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

Collector
may
correct
classifica-
tion in
returns.

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating *raiya*t, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder ;

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

Summary
valuation
of small
revenue-
paying
estates and
tenures.

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure,—

- (a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times,

¹See foot-note 1 on page 445, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 28, 29.)

and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor ; or,

- (b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

28. When the area of any revenue-free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

Summary valuation of small revenue-free estates and rent-free tenures of which the area has been ascertained.

29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules :—

Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure.

- (1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.

Example.—An estate paying a revenue of Rs. 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is lot in *patni* for a rent of Rs. 120. The annual value of the *patni* tenure will be Rs. 200.

- (2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—

(a) the difference between the annual value of the estate or superior tenure, and the revenue or rent-payable in respect of such estate or superior tenure, shall first be ascertained ;

(b) next, the ratio which such difference bears to such revenue or rent shall be ascertained ;

(c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained ;

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 30, 31.)

(d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure ; and

the result shall be taken to be the annual value of the subordinate tenure.

Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in *patni* for a rent of Rs. 37-8.

The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs. 60).

The amount which bears the same ratio (two-thirds) to the rent payable in respect of *patni* (Rs. 37-8) is Rs 25 ;

add half of Rs. 25 to the rent payable in respect of the *patni* tenure, and the result (Rs. 37-8 + Rs. 12-8 =) Rs. 50 will be the annual value of the *patni* tenure.

Example B.—Within the *patni* tenure paying a rent of Rs. 37-8 as in Example A, is a *darpatni* tenure paying a rent of Rs. 27.

The difference between the annual value of the *patni* tenure ascertained as above (Rs. 50) and the rent payable in respect of the *patni* (Rs. 37-8) is Rs. 12-8, which bears a ratio of one third to the said rent.

The amount which bears the same ratio (one-third) to the rent payable in respect of the *darpatni* (Rs. 27) is Rs 9 ;

add half of Rs. 9 to the rent payable in respect of the *darpatni*, and the result (Rs. 27 + Rs. 4-8 =) Rs. 31-8 will be the annual value of the *darpatni* tenure.

When such land may be valued according to rate per acre.

30. When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

Holder of summarily valued estate or tenure may lodge return,

31. The holder of any estate or tenure which has been summarily valued under section 27 or 28, may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

¹The word "ratio", in Example B, was substituted for the word "rate" by sec. 8 and the Second Schedule of the Amending Act, 1908 (1 of 1908).

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 32—35.)

32. Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in the Form No. I in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Collector may value small estate or tenure by regular process.

Lands used for Tea, Coffee or Cinchona.

33. In the case of lands acquired under any rule issued by, or under the authority of, the Government for the sale, lease, grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee, or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate.

Return of plantations, etc.

The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

34. Whenever any valuation or revaluation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

Valuation-rolls to be prepared.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the *mál-cutcherry* of the estate to which such roll refers, and shall cause extract of such portions of any such roll as refer to any tenure to be posted up at the *mál-cutcherry* of such tenure:

Publication of rolls.

Provided that, if no such *mál-cutcherry* be found, such roll and such extracts shall be posted up at some conspicuous places

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 36—37-1.)

on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

To be attested by two persons.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or *chaukidars*, or other ¹[servants of the Government], to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

Valuation and re-valuation to be in force for five years.

36. Except as otherwise in this Part expressly provided, every valuation and revaluation made under this Chapter shall remain in force for the term of five years from the date fixed by the ²[Board of Revenue] under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another revaluation and assessment in substitution thereof shall have been ordered and completed.

Collector may reduce valuation.

37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the ³Commissioner from making at any time any reduction which he may think fit in the valuation of any estate or tenure ;

and may value and assess omitted and newly-formed estates and tenures.

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

[37A-37-I.]—(Chapter IIA.)—Rep. by sec. 3 of the Bengal Cess (Amendment) Act, 1943 (Ben. Act XI of 1943).

¹The words "Servants of the Crown" were originally substituted for the words "officers of Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

²See foot-note 8 on page 441, *ante*.

³The word "Commissioner" was substituted for the words "Board of Revenue," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sections 38—40A.)

CHAPTER III.

RATING AND LEVY OF THE CESSES.

¹38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board.

Rate at which road cess shall be levied, how to be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and subject to the maximum rate in that section mentioned, at such rate as the ²[State Government] may determine for such year.

Rate at which public works cess shall be levied, how to be fixed.

40. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the ³[Official Gazette]

Notice showing amount of cess payable to be served on samindars.

^{*} ^{*} ^{*}, the Collector of the district shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect :

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

⁵40A. Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating *raiyat*) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a

Recovery of cess from tenures in Government estates.

¹Section 38 was substituted for the original section 38 by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

^{*}See foot-note 1 on page 436, *ante*.

^{*}See foot-note 2 on page 436, *ante*.

⁴The words "as provided in section 155" were omitted by the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

⁵Section 40A was inserted by sec. 4 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter III.—Rating and
Levy of the Cesses.—Section 41.)

tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

41. Except as otherwise in this Act provided,—

Mode of
payment
of road cess
and public
works cess
by holder
of estate ;

(1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof ;

by holder
of tenure ;

(2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure ;

by culti-
vating
raiyyat ;

(3) every cultivating raiyyat shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him.

by holders
of *chauki-
dari*
chakran
lands.

¹Notwithstanding anything hereinbefore in this section contained, all persons to whom *chaukidari chakran* lands have been transferred under Part II of the Village Chaukidari Act, 1870, or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have

Ben. Act
VI of 1870.

¹This paragraph was added to sec. 41, for Western Bengal, by sec. 9 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

of 1880.]

(Part II.—Mode of Asséssment.—Chapter III.—Rating and Levy of the Cesses.—Sections 42, 43.)

been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands.

42. (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed ¹[under the provisions of section 3 of Act XI of 1859^a, or of any similar Act at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum.

Time of payment by holder of an estate ;

(2) Every holder of a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the ^a[Board of Revenue].

(3) Every holder of a rent-paying tenure and every cultivating *raiyat* shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or *raiyat* :

by tenure-holder and *raiyat*.

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or *raiyat* shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the ^a[Board of Revenue].

43. In case of partition of an estate being effected under ⁴[the Estates Partition Act, 1897], or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately ⁵[to the land-revenue] under the order of the

Distribution of valuation in case of partition.

Ben. Act V of 1897.

¹These words and figures were substituted for the words "for the payment of the instalments" by sec. 5 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

^aThe Bengal Land Revenue Sales Act, 1859.

²These words were substituted for the word "Lieutenant-Governor" by the Bengal Decentralization Act, 1915 (Ben Act V of 1915).

⁴These words and figures were substituted for the words and figures "Regulation XIX of 1814. or Bengal Act, VIII of 1876," by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁵These word were inserted by sec. 6 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

[Ben. Act IX]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 44.)

Collector over the newly-formed estates whereupon the newly-formed estates shall, for the purposes of this Act, take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates.

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land-revenue.

Procedure to be followed when there is a partition.

Effect of opening separate account under Act XI of 1859 or Bengal Act VII of 1876.

The procedure prescribed by sections 34 and 35 shall be followed whenever a redistribution of the valuation is made in consequence of a partition as mentioned in ¹[this section].

44. (1) When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859², or under section 70 of Bengal Act VII of 1876³, or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859² and Bengal Act VII of 1876³ in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act XI of 1859² subject,

¹These words were substituted for the words "the last preceding section" by sec. 6 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

²The Bengal Land Revenue Sales Act, 1859.

³The Land Registration Act, 1876.

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 44.)

however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

¹(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act XI of 1859² or section 70 of Bengal Act VII of 1876³, for the opening of a separate account of the land-revenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

¹(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

¹These sub-sections (4a) and (4b) were inserted, for Western Bengal, by sec. 10 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²The Bengal Land Revenue Sales Act, 1859.

³The Land Registration Act, 1876.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 45.)

¹(5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

Effect of
payment
or non-
payment
of cess on
or before
due date.

²45. (1) A rebate of five *per centum* of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure, or of the interest of a cultivating *raiyat* shall be allowed at the time of payment :

Provided that—

(a) the instalment is paid in full on or before the due date, and

(b) the annual cess payable in respect of the estate, tenure or interest amounts to fifty rupees or more.

Explanation.—The word “estate” as used in this sub-section means, in the case of a payment made in respect of the share or portion of an estate for which a separate account referred to in section 44 has been opened, the share or portion in respect of which the payment is made.

(2) Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885, if any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within thirty days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within six years after it becomes due, with interest at the rate of ³[six and a quarter] *per centum per annum* calculated from the date on which such instalment became due with all costs of recovering the same :

VIII of
1885.

4 *

(3) The provisions of sub-section (1) shall not apply to any amount payable as road cess and public works cess in respect of any lands referred to in section 33 or sub-section (4) of section 107D.

¹Sub-section (5) was added by sec. 7 of the Bengal-Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

²Section 45 was substituted for the original section 45 by sec. 4 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934.)

³These words were substituted for the words “twelve and a half” by sec. 2 and the Schedule of the Bengal Rates of Interest Act, 1939 (Ben. Act III of 1939).

⁴The proviso to sub-section (2) beginning with “Provided that” and ending with “recovering the same.” was omitted, *ibid.*

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sections 46—48.)

46. (1) In any district to which the ¹[Board of Revenue] may specially order that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

With permission of the Board of Revenue, Collector may keep separate account of cesses payable by registered holders of revenue-free estates.

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; ²[and the Collector, if he becomes aware that any separate account opened under sub-section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account.]

(3) As long as any separate account shall remain open as provided in the ³[preceding sub-section], and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof.

47. Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with interest at the rate of ⁴[six and a quarter] *per centum per annum* in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery by holders of estates or tenures.

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may

Recovery from co-sharer-holders.

¹See foot-note 3 on page 453, *ante*.

²These words, brackets and figure were substituted for the words "and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account," for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

³These words were substituted for the words "preceding clause" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁴See foot-note 3 on page 456, *ante*.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 49.)

recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Recovery
by record-
ed share-
holders
from their
co-sharers
by certi-
ficate
process.

49. Wherever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector,

or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue or rent to the Collector direct,

shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate,

¹he may, within ²*[six weeks]* of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate ;

³he may, within *fifteen days* of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate ;

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand ; and the same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate :

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate ; and all proceedings taken by the Collector for the recovery of the sums mentioned in the

¹This clause of section 49 is in force in this form in Western Bengal. The only difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

²These words were substituted for the words "fifteen days" for Western Bengal, by sec. 12 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

³This clause of section 49 is in force in this form in Eastern Bengal.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Section 50.)

certificate shall be taken at the instance of the person in whose favour the certificate has been made, and at his cost, and on his responsibility, and not otherwise :

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

CHAPTER IV.

VALUATION AND ASSESSMENT OF LANDS HELD RENT-FREE, AND PAYMENT AND RECOVERY OF CESS IN RESPECT THEREOF.

50. All lands held ¹[rent-free] other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form a part of any tenure within the local boundaries of which they are contained ; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate within the local boundaries of which they are contained ; and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate ; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint :

Rent-free lands in what estates or tenures to be included for the purposes of this Act.

²Provided that where in a valuation or revaluation of lands made under Chapter VIIA any such land is recorded in the last finally published record-of-rights as comprised within any estate or tenure, it shall be deemed to form part of the estate or tenure in which it is so recorded, unless the Collector orders that in any particular case such land shall be included in some other estate or tenure or that the cess shall be payable direct to the Collector or to any other person on his behalf.

¹This word was substituted for the words "without payment of rent" by sec. 5(1) of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²This proviso was added by sec. 5(2), *ibid.*

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 51—52.)

Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein.

Information regarding rent-free lands.

51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

¹51A. (1) Every owner, holder or occupier of any rent-free land shall be bound to give on demand to the Collector or to the holder of the estate or tenure within which such land is, for the purposes of this Act, included or to his authorised agent all information in his possession regarding the area, situation and description of the land and the names and addresses of all persons owning, holding or occupying it as may be reasonably required for the purpose of the collection or recovery of the cess due on such land.

(2) If any such owner, holder or occupier of rent-free land fails without reasonable excuse to comply with such demand within three months after receiving the same, he shall be liable to a fine not exceeding one hundred rupees, and the provisions of sub-sections (3) to (7) of section 58 of the Bengal Tenancy Act, 1885, shall, so far as may be, apply to the imposition and recovery of the fine.

VIII of
1885.

(3) The Collector may, either on the application of the holder of the estate or tenure within which such rent-free land is included, or of his own motion, summon the owner, holder or occupier of any rent-free land to furnish him with the information referred to in sub-section (1) and such owner, holder or occupier shall furnish such information so far as the same may be in his possession.

(4) For the purpose of sub-section (3) the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents, in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908.

Act V of
1908.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

¹Section 51A was inserted by sec. 6 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 52A, 53.)

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned.

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

¹52A. Whenever any notice has been duly published under section 52, the Collector shall sign a certificate to that effect, and such certificate shall be conclusive proof that the publication has been duly made.

Certificate of publication of notices under section 52.

53. Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess under this chapter, the owner, holder or occupier of any such land may make, before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates :

Holder of rent-free land may object to valuation.

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rent-paying land.

¹Section 52A was inserted, for Western Bengal, by sec. 13 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910). This section was extended to the districts in the Chittagong, Rajshahi and Dacca Divisions of the Bengal Presidency by sec. 2 of the Bengal Cess (Amendment) Act, 1932 (Ben. Act XIV of 1932).

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Section 54.)

Notices to be published by holders of estate in certain cases.

54. In the following cases, that is to say :—

- (1) whenever a new valuation or re-valuation takes effect in any district or part of a district ;
- (2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceeding year ; and
- (3) whenever the dates fixed by the ¹[Board of Revenue] under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,

the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively ; and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall be given.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation roll :—

- | | |
|---|---|
| ² (1) a statement of the quantity, or a description, of the land, as entered in the Collector's valuation-roll ; | ³ (1) a specification of the land in respect of which the cesses are payable ; |
|---|---|
- (2) the name of the owner, holder or occupier of such lands if known ;
 - (3) the annual value of such land as entered in the Collector's valuation-roll ;
 - (4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year ;

¹See foot-note 3 on page 441 ante.

²This clause (1) is in force in this form in Western Bengal, having been substituted by sec. 14 of the Bengal Cess (Amendment) Act, 1910 (Ben Act IV of 1910), for the clause printed opposite to it.

³This clause (1) is in force in this form in Eastern Bengal.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 55—57.)

(5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates ; and

(6) the dates fixed by the ¹[Board of Revenue] under section 57 for the payment of each instalment, together with the amount of each instalment.

55. Publication of the notice above-mentioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate ;

Mode of publication.

by depositing another copy thereof to be available for general inspection at any *mal-cutcherry* of the estate or tenure in which such land is included, or at any other convenient place in the neighbourhood ;

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited that it is open to inspection at the *mal-cutcherry* or other convenient place as above-mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

56. After publication of the extracts from the roll as provided in section 52, and in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Owner of rent-free land bound to pay cess at full rate.

57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the ¹[Board of Revenue].

Instalments to be fixed by Board of Revenue.

¹See foot-note 8 on page 441, *ante*.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 57A—60.)

Place of
payment
or tender
of cess.

¹57A. (1) The provisions of section 54 of the Bengal Tenancy Act, 1885, regarding payment or tender of rent at the landlord's village office or other convenient place or by postal money-order shall apply to the payment or tender of cess by the owner, holder or occupier of rent-free land, as if the person to whom the same is payable under this Act is his landlord.

VIII of
1885.

(2) The provisions of section 56 of the Bengal Tenancy Act, 1885, regarding the grant of rent-receipts shall apply to the payment of cess by the owner, holder or occupier of rent-free land as if the person to whom the cess is payable under this Act is his landlord.

If instal-
ments not
paid within
a month,
double the
amount
may be
recovered.

58. When an instalment of the cesses due on any rent-free land is not paid ²[or tendered] to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of ³[six and a quarter] *per centum per annum* from the date on which such instalment was payable, and with all costs of suit :

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

Holders of
estates,
etc., may
send in
supple-
mentary
returns in
respect of
rent-free
lands.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act X of 1871⁴, or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Effect of
supple-
mentary
returns.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51 ; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

¹Section 57A was inserted by sec. 7 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²These words were inserted by sec. 8, *ibid.*

³See foot-note 3 on page 456, *ante*.

⁴Ben. Act X of 1871 has been repealed by this Act—see. sec. 3, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 61—64.)

61. The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Sections applicable to amounts payable by owner, etc., of rent-free land.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of ¹* * * this Act before the fulfilment of the requirements of the sections 52, 53 and 54 ; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of ²[six and a quarter] *per centum per annum* on such amount, and with all costs of suit :

Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with.

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess at any date within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure.

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

Owner of rent-free land liable to pay cess in future.

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act X of 1871³ and has paid to the Collector any cess payable under the said Act, or under the Bengal Act II of 1877³ in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

Additional return of rent-free land entered in return under Bengal Act X of 1871 may be made.

¹The words and figures "Bengal Act X of 1871, or of" were repealed by sec. 8 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 3 on page 456, *ante*.

³Bengal Acts X of 1871 and II of 1877 have been repealed by this Act—see sec. 8, *ante*.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 64A, 64B.)

Additional return to be deemed supplementary return.

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

Holders of estates, etc., how to recover from holders of rent-free lands.

¹64A. ²[Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885,] all sums due to the holder of any estate or tenure under the provisions of this chapter ³[or of Chapter VIIA], in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same ⁴[within six years from the date on which such sums became due], by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding

VIII of 1885.

* * * * *

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

¹64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

¹Sections 64A and 64B were inserted by the Bengal Cess (Amendment No. 1) Act, 1881 (VII of 1881) and are to be deemed to have been inserted from the date on which Ben. Act IX of 1880 came into force—see Act VII of 1881, sec. 1.

²These words and figures were inserted by sec. 9(a) of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

³These words, brackets, figures and letter were inserted by sec. 9(b), *ibid.*

⁴These words within square brackets were inserted by sec. 9(c), *ibid.*

⁵The words "and subject to the same rules as to limitation" were omitted by sec. 9(d), *ibid.*

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 65—67.)

65. Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted.

Occupier may deduct cess paid from rent.

66. Notwithstanding anything in this chapter contained, the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51.

Notice to be served on holder of rent-free land requiring him to lodge return.

Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land ;

and on service of such notice the provisions of this chapter shall no longer apply to such lands ; but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate.

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

67. If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder of any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon :

If no notice served, such holder bound to notify omission to Collector.

Provided that no holder of rent-free land who at any time after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 68—71.)

Collector thereupon may require such holder to make return.

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

Order to have effect of notice.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

Liability of such holder to pay arrears of cesses.

70. As soon as any rent-free land which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at ¹[six and a quarter] *per centum per annum* on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

Such holder is not liable to pay cesses except to Collector or his Deputy.

71. No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land, an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act ;

and, upon such order being made, the provisions of this chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

¹See foot-note 3 on page 456, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 72, 72A.)

CHAPTER V.

Page 469—

NES,
Y.

In section 72,—

(1) for the words and letter "in the form in Schedule E contained", substitute the words, figures and the district letter "in the case of coal mines in Form No. I chief agent, in Schedule E contained and in any other case, in y, railway provisions Form No. II in the said Schedule contained"; in the form in

Notice to
return
profits.

(2) for the words "of the net annual profits of such property", substitute the words "in the case of a coal mine, of the annual despatches from such coal mine, and in the case of any other property, of the annual net profits of such other property,"; chief agent, sector within h property, thereof for de up. time allowed

(3) omit the words "of the annual net profits thereof".

(Substituted and omitted by West Ben. Act XXIII of 1964, section 4.)

[No. 1, dated the 1st January, 1969.]

Penalty
for omit-
ting to
lodge a
return.

Collector, refuses or omits to
lodge the required return in the

Page 469

In sub-section (1) of section 72A, for the words "the annual net profits of the property", substitute the words "the annual despatches or the annual net profits, as the case may be, in respect of the property".

(Substituted by West Ben. Act XXIII of 1964, section 5.)

[No. 1, dated the 1st January, 1969.]

not pre-
respect of which the notice has
been served shall have been
otherwise ascertained and deter-
mined by the Collector as here-
inafter provided.

¹The words and figure "and not being one of the tramways or railways mentioned in section 8" were repealed by sec. 8 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Section 72A was inserted, for Western Bengal, by sec. 15 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 73—75.)

(2) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise directs.

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

When

proposed

Page 476—

In section 74, for the words beginning with "total annual net profits" and ending with "accrue in the State", substitute the following words, namely:—

"total annual despatches or the total annual net profits, as the case may be, calculated as aforesaid, in respect of the whole of such property and also the portion of such annual despatches or annual profits, as the case may be, which may reasonably be calculated to relate to the portion of such property situated within the State".

(Substituted by West Ben. Act XXIII of 1964, section 6.)

[No. 1, dated the 1st January, 1969.]

incorrect,

Collector

Page 470—

In section 75, for the words "the annual net profits of such property calculated as aforesaid", substitute the words "the annual despatches or the annual net profits, as the case may be, calculated as aforesaid in respect of such property".

(Substituted by West Ben. Act XXIII of 1964, section 7.)

[No. 1, dated the 1st January, 1969.]

73. Whenever any property assessable under this chapter lies in two or more districts the notice to furnish a return under this chapter, to be signed by the manager or of the occupier of the property, shall be returned to the Collector of the district in which the property is situated, and the Collector shall forward the same to the Commissioner of the division in which the property is situated, and the Commissioner shall forward the same to the Government of the Punjab.

this chapter the return of total annual net profits of such property, reasonably

the period of service, or the district, in pursuance of which the Collector shall proceed to assess the property as to him such property

Sch. IV of the

of the territories of the Punjab (Punjab Acts) for the word 50.

For section 76, substitute the following section,
 helv:—

471

“Valuation where com-
 pilation of
 average
 not
 possible.”
 he may, by such ways or means as to him shall seem
 expedient—

- (a) in the case of a coal mine, ascertain and determine the annual despatches therefrom to the best of his judgment having regard to all the circumstances of the case, and
- (b) in the case of any other property ascertain and determine the value of such other property and determine six *per centum* on such value to be the annual net profits of such other property.”.

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 her Immo-

annual net
 is chapter,
 expedient,
 and shall
 to be the

Valuation
 on value of
 property.

ion under
 h all costs
 the person
 : incorrect

Cost of
 valuation
 from whom
 to be re-
 covered.

substituted by West Bengal Act XXIII of 1964, section 8.)

[No. 1, dated the 1st January, 1969.]

Page 471—

In section 78,—

- (1) for the words “the annual net profits as aforesaid of”, substitute the words “the annual despatches or the annual net profits, as the case may be, in respect of”;
- (2) after the words “notice informing him of”, insert the words “the quantity of the annual despatches or”.

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 y such pro-
 chief agent,
 ng him of
 and deter-

Notice of
 valuation.

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 may for
 rved, and
 id autho-

Valuations
 under this
 chapter to
 be annual.

(Substituted and inserted by West Ben. Act XXIII of 1964,
 section 9.)

Page 471—

In section 79,—

(1) in the first proviso—

- (a) after the words and figures “under section 72”, to accept such
 insert the words “such property

- (b) for the words “the annual net profits”, in the two
 places where they occur, substitute the words
 “the annual despatches or the annual net profits,
 as the case may be,”.

(2) in the second proviso,

- (a) after the words “satisfied that though”, insert the
 words “despatches issued or”,

- (b) for the words “the net profits of such property”,
 substitute the words “the annual despatches or
 the annual net profits, as the case may be, in
 respect of such property”.

section 72
 rner, chief
 he see fit,
 at the annual
 poses of this
 ch of the five

Declara-
 tion of
 annual net
 profits by
 owner for
 five years.

Effect of
 acceptance
 by Collec-
 tor of
 declaration.

d that though
 ble under this
 respect there-
 rmine by such
 net profits of
 not exceeding
 public works
 ite determined
 or shall add the
 notice to be
 payable in two

(Inserted and substituted by West Ben. Act XXIII of 1964,
 section 10.)

Amendment) Act,

[No. 1, dated the 1st January, 1969.]

[Ben. Act IX]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 80—83.)

Notice of
rate of cess
and dates
of pay-
ments.

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect.

And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the year.

Recovery
by occu-
pier or
owner who
has paid in
excess.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property: and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier:

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

How distri-
buted
when pro-
perty in
different
districts.

82. The total of the cesses payable in respect of property assessable under this chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion which such districts bear to the total of such districts in the section.

Page 472—

In section 83,—

- (1) for the words "the total annual net profits", substitute the words "the total annual despatches or the total annual net profits, as the case may be,";
- (2) for the words "such profits accruing in the territories", substitute the words "such despatches issuing from, or such profits accruing in, the territories".

(Substituted by West Ben. Act XXIII of 1964, section 11.)

this chapter
shall from
profits stated
ing in the
any man-
ty shall be-

" by sec. 2 of
885).

[No. 1 dated the 1st January, 1969.]

him", by the

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Chapter VI.—Special Provisions for [Orissa and] Midnapore.—Sections 84—86.)

assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the ¹[District Road Fund] of each district concerned.

84. Every notice under this chapter may be served—

Service of notices under this chapter.

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid ; or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office ; or
- (c) by giving it to such owner, chief agent, manager or occupier.

CHAPTER VI.

SPECIAL PROVISIONS FOR [Orissa and] MIDNAPORE.

85. [In any district of the ²[State] of Orissa and] in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard *bighas* in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situated or which it adjoins.

Collectors in [Orissa and] Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of estate to which such revenue-free estate is annexed.

¹These words were substituted for the word "Committee" by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

²This word was substituted for the word "Province" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for [Orissa and] Midnapore.—Chapter VII.—Miscellaneous.—Sections 87—91.)

Notice to be given to holder of revenue-free estate.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Cesses payable by holder of revenue-free estate in such instalments as Board of Revenue may direct.

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the ¹[Board of Revenue] under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the ¹[Board of Revenue] may direct, or, if the ¹[Board of Revenue] shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the ¹[Board of Revenue] may appoint.

In default of payment as hereby required, the provisions of section 47 shall be applicable.

Notices to be served.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided ;

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

Collector may revoke orders

under section 85.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed,

CHAPTER VII.

MISCELLANEOUS.

Collector may appoint certain establishments.

91. The Collector, with the sanction of the Board of Revenue, may appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations,

¹See foot note 8 on page 453. ante.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 91A—94.)

re-valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes ;

and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

¹91A. The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

Payment
of com-
mission to
tahsildars.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause I of section 23 and clause I of section 24 of Regulation VII of 1822^a, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Powers of
Collector
making
valuation,

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

Commis-
sioner or
Board may
revise
valuation.

False
returns.

³94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

⁴94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

False
returns.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

^aSection 91A was inserted, for Western Bengal by sec. 16 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

^bThe Bengal Land-revenue Settlement Regulation, 1822.

^cSection 94 is in force in this form in Western Bengal.

^dSection 94 is in force in this form in Eastern Bengal.

The difference in the section as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Sections 95—97.)

1* * * *

And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return, by such ways and means as to him shall seem expedient.

Returns of evidence against the maker only.

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour.

Service of notices under this Part.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed ; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside ; or
- (3) by posting a copy of the notice at the *mal-cutcherry* of the estate or tenure to which the notice relates, or, if no such *mal-cutcherry* be found, on some conspicuous place on such estate or tenure : and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

Costs of service.

97. The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit ; and

*The words in italics printed opposite were repealed, in Western Bengal, by sec. 17 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and are omitted.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 98, 99.)

every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund :

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return or giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

No costs to be recovered for certain notices.

98. Every amount due, or which may become due to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law for the time being in force for the realization of public demands ; and shall be deemed to be a public demand under such law :

Dues under the Act to be levied as public demand.

Provided that the ¹[District Road Fund] shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

99. Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due.

Collector may recover dues out of rent.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the *mal-cutcherry* of the estate or tenure to which such notification relates, if such *cutcherry* be found.

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void ;

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from

¹These words were substituted for the words "District Road Committee" by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 100—102).

any occupier, tenure-holder, under-tenant or *raiayat* on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked.

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or *raiayat* to whom such receipt is given.

Collector's
claim to
have
priority.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government revenue.

Board of
Revenue
may invest
any person
with
Collector's
powers.

100. The ¹[Board of Revenue] may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the ¹[Board of Revenue] shall direct.

Collector
may
delegate
powers.

101. The Collector may ^{2*} delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank :

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

Appeals
against
valuation.

102. Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of section 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

and ^{3*} every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part,

may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,

prefer his objections to the Collector ;

¹See foot-note 8 on page 458, *ante*.

²The words "with the sanction of the Commissioner" were omitted, by the Bengal Decentralisation Act, 1915 (Ben. Act V of 1915).

³The words "subject to anything contained in Chapter IIA," were repealed in Western Bengal by sec. 8 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 103—105.)

and, if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

Orders for
levy of fine
appealable.

104. Every order passed by the Collector under sections 19, 20, 26, ¹46(2), 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Orders
appealable
to Com-
missioner.

Revision of
orders by
Collector,
and control
and super-
vision by
Com-
missioner
and Board.

²105. Notwithstanding anything hereinbefore contained,—

³105. Notwithstanding anything hereinbefore contained,

Collector's
proceed-
ings sub-
ject to
supervision
of Com-
missioner
and Board.

(a) *the Collector may at any time revise any order made under this Part by himself or by any officer subordinate to him, unless an appeal against such order has been preferred, and*

(b) all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all proceedings of the Commissioner under this Part shall be subject to the general control and supervision of the Board of Revenue.

all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all *such* proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue.

¹These figures "46(2)," were inserted for Western Bengal, by sec. 19 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) and for Eastern Bengal by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Section 105 is in force in this form in Western Bengal, having been substituted by sec. 20 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), for the section printed opposite to it.

The differences in section 105 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the matter printed in italics.

³Section 105 is in force in this form in Eastern Bengal.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 106, 107.)

Board may
make rules.

106. The Board of Revenue may, ¹[subject to the provisions of section 107-R,] from time to time make, and, when made, from time to time alter, add to or cancel, any rules—

- (a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made ;
- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97 ;
- (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34 ;
- (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44 ;
- (e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46 ;
- (f) regulating the proceedings of the Collectors under Chapter V ;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

All rights
in im-
movable
property
saved
unless
affected by
this Act,

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in this Act.

¹These words, brackets, figures and letter were inserted by sec. 11 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107A.)

¹CHAPTER VIIA.

VALUATION AND REVALUATION OF LANDS IN A DISTRICT OR PART OF A DISTRICT IN RESPECT OF WHICH A RECORD-OF-RIGHTS HAS BEEN FINALLY PUBLISHED AND PAYMENT OF CESS ON SUCH LANDS.

¹107A. (I) Notwithstanding anything contained in this Act—

(a) the valuation or revaluation of lands in a district included in Schedule G or in a part of such district shall be made in accordance with the provisions of this chapter :

Applica-
tion of
chapter,

²Provided that if at any stage of the operations regarding valuation or revaluation of lands under this chapter, the ³[State] Government is of opinion that the valuation or revaluation of such lands should be made in accordance with the provisions laid down in Chapters II, III and IV, the ³[State] Government shall, by notification in the *Official Gazette*, make an order to that effect, and on the publication of such notification,—

(i) the valuation or revaluation of lands in respect of which such notification is in force shall be made in accordance with the provisions of Chapters II, III and IV ;

(ii) the valuation or revaluation of such lands made under this chapter shall have no effect ; and

(iii) the holders of estates or tenures or the owners, holders or occupiers of rent-free interest who have filed returns under section 107J shall not be again called upon to file returns under Chapter II or Chapter IV for the purposes of valuation or revaluation under Chapters II, III and IV, and the returns filed under section 107J shall be treated as returns filed under Chapter II or Chapter IV, as the case may be ;

(b) every holder of an estate, other than ⁴[the Government], and every holder of a tenure or other interest in land in a district or part of a district in respect of which

¹Chapter VIIA (Sections 107-A to 107-S) were inserted by sec. 12 of the Bengal Cess (Amendment) Act, 1934 (Bon. Act XI of 1934).

²This proviso to clause (a) was added by sec. 2 and the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Bengal Act XII of 1947).

³This word was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁴The words "the Crown" were originally substituted for the word "Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107B.)

such valuation or revaluation shall have been made shall be bound to pay cess in accordance with the provisions of this chapter from the date fixed by the Board of Revenue as the date from which such valuation or revaluation shall take effect :

Provided that no such valuation or revaluation shall take effect before the expiration of the period of five years from the date from which the last preceding valuation, if any, took effect :

¹Provided further that where a notification has been issued under the proviso to clause (a) for the valuation or revaluation of any lands in accordance with the provisions of Chapters II, III and IV, the cess in respect of such lands shall, when such valuation or revaluation shall have been made, be paid in accordance with the provisions of Chapter III or Chapter IV, as the case may be, from the date fixed by the Board of Revenue as the date from which the valuation or revaluation so made shall take effect.

(2) The ²[State Government] may, from time to time, by notification in the ³[Official Gazette] include in Schedule G any district in respect of the whole or any part of which a record-of-rights has been finally published under Chapter X of the Bengal Tenancy Act, 1885, ⁴[or may, by like notification with effect from such date as may be specified in the notification, exclude from the said schedule any district for the time being included therein].

VIII of
1885.

⁵(3) The reference in sub-section (1) to Schedule G shall be construed as a reference to such schedule as for the time being amended under sub-section (2).

⁶107B. In this chapter, unless there is anything repugnant in the subject or context,—

(1) “acreage rate” means the rate per acre of land determined in accordance with the provisions of this chapter;

Defini-
tions.

¹This proviso to clause (b) was added by the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

²The words “Provincial Government” were originally substituted for the words “Local Government” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “State” was substituted for the word “Provincial” by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³See foot-note 2 on page 486, *ante*.

⁴These words were added by sec. 2 and the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

⁵This sub-section (3) was added, *ibid*.

⁶Chapter VIIA (Sections 107A to 107B) were inserted by sec. 12 of the Bengal Cess (Amendment) Act, 1984 (Ben. Act XI of 1984).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107B.)

- (2) "annual value of any land" means the sum of money calculated by multiplying the area of the land by the acreage rate applicable to such land ;
- (3) "cess" means the road cess and the public works cess ;
- (4) "cess-free land" means all land in respect of which, in accordance with the provisions of section 107-C, no cess shall be payable ;
- (5) "cess-paying land" means all land other than cess-free land ;
- (6) "class of land" means a class of land according to the classification adopted in the last finally published record-of-rights relating to the district or part of a district in which the land is situated ;
- (7) (i) except as provided in sub-clause (ii), "Collector" means, in the case of lands which have been or are about to be valued or revalued under this chapter, the officer in charge of the revenue administration of the district in which such lands are situated or any officer appointed by the ¹[State Government] to exercise any of the functions of a Collector under this chapter in respect of such lands ;
- (ii) in clause (8) in sub-section (1), of section 107-M and in section 170-O "Collector" means, in the case of a revenue-paying estate, the Collector or similar officer on whose revenue-roll the estate is borne, and, in the case of a revenue-free estate, the Collector or other similar officer on whose general register of revenue-free lands the estate is borne ;
- (8) "estate" means—
 - (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force ;
 - (2) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands ;
 - (9) "farmer of an estate" means the farmer of an estate let to him in farm by ²[any Government] ;
 - (10) "holder of an estate" includes ³[the Government] in the case of estates which are—
 - (a) the property of ³[the Government], or

Ben. Act
VII of
1876.

¹See foot-note 1 on page 436, *ante*.

²These words were substituted for the word "Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³See foot-note 4 on page 481, *ante*.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107C.)

- (b) the property of private persons and are under the direct management of ¹[any Government] or have been let in farm by ¹[any Government] ;
- (11) “prescribed” means prescribed by rules made under this chapter ;
- (12) “rent” means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant ;

Explanation.—Where rent is payable in kind the money value thereof shall, for the purposes of this chapter, be taken to be the value of the landlord’s share of the crop calculated on an average of the five years next preceding any valuation or revaluation under this chapter ;

- (13) “tenure”, “*raiya*” and “under-*raiya*” have the same meanings as in the Bengal Tenancy Act, 1885.

VIII of
1885.

Cess-
paying and
cess-free
lands.

²107C. (1) Except as otherwise provided in this section all lands shall be cess-paying.

- (2) The following lands shall be cess-free, namely :—

- (a) in areas other than those referred to in clause (b)—

- (i) all lands recorded in the last finally published record-of-rights as belonging to a class included in the statement of classes of cess-free lands published under sub-section (3) of section 107-G ;

- (ii) all lands included in a list of cess-free lands published under sub-section (2) of section 107-I ;

- (b) in arrears which have been omitted from a record-of-rights, or in which the Collector considers that the classification contained in the last finally published record-of-rights should not be followed owing to extensive changes in the land which have occurred since its preparation—

- (i) all lands which consist of jungle, road, path, river, *khal*, graveyard, cremation-ground, mosque, temple or any other place of public worship, unculturable waste, unculturable marsh and unculturable *bil* so long as they continue to be such ;

- (ii) all lands exempted for the time being from liability to cess by an order of the Collector.

¹See foot-note 2 on page 483, *ante*.

²See foot-note 6 on page 482, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107 D.)

(3) Nothing in this chapter shall apply to the following classes of immovable properties, namely ;—

- (i) railways and tramways,
- (ii) mines and quarries, and
- (iii) forests :

Provided that the Collector may, at his discretion, decide what land shall be assessable under Chapter V as forests.

¹107D. (1) On receipt of an order under section 12 or section 15 for the valuation or revaluation of a district or part of a district the Collector may divide the district or part thereof into as many suitable units as he considers necessary and shall determine in accordance with such rules as the ²[State Government] may make a fair and uniform acreage rate for the district or part thereof, as the case may be, or, if the district or part thereof has been divided into units, a fair and uniform acreage rate for each unit.

Deter-
mination
of acreage
rate.

(2) Such rate shall not exceed—

- (a) one-fifth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined estimated on the assumption that the land produces a normal crop of paddy :

Provided that in respect of any district or part of a district the ²[State Government] may, at its discretion, direct that the estimate shall be made without such assumption :

In making the estimate the following matters shall be taken into account, namely :—

- (i) the general productivity of agricultural lands in the area for which the rate is being determined ;
- (ii) the prices prevailing during the preceding five years of agricultural produce generally in the district ;
- (iii) the total estimated value of all agricultural produce of the district for the preceding five years ;
- (b) a rate likely to increase the total cess demand in the district by more than twenty *per centum*.

(3) In determining such rate the Collector shall take amongst others the following matters into consideration :—

- (i) the maximum rate according to his estimate under sub-section (2) ;

¹ See foot-note 6 on page 482, *ante*.

² See foot-note 1 on page 486, *ante*.

The Cess Act,

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107E.)

- (ii) the amount of the existing demand for road cess and public works cess in the district and the incidence thereof ;
 - (iii) the rate of rent generally payable by *rai-yats* or under-*rai-yats* of all grades.
- (4) Notwithstanding anything contained in sub-sections (1), (2) and (3), in the case of lands acquired under any rule issued by, or under the authority of, Government for the sale, lease, grant or clearance of waste lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the acreage rate shall be twenty rupees per acre.

Deter-
mination
of cess-
free and
cess-paying
lands.

¹107E. (1) The Collector shall, except in the case of an area referred to in clause (b) of sub-section (2) of section 107C, in accordance with such rules as the ²[State Government] may make in this behalf—

- (a) prepare a statement of the classes of lands in the district or part of a district which shall be cess-free and shall include therein any class of lands consisting entirely of jungle, road, path, river, *khal*, graveyard or cremation-ground, mosque, temple or any other place of public worship, and may include therein any other class of land if he considers it to consist entirely of unculturable waste, and
- (b) prepare, in such form as may be prescribed, a list of lands in any village, group of villiages or local area, other than lands belonging to any class specified in the statement prepared under clause (a), which shall be cess-free :

Provided that he shall not include any land in the list except on the ground that it is unculturable waste.

(2) In the case of an area referred to in clause (b) of sub-section (2) of section 107C, the Collector shall, after considering the returns, if any, submitted by the holder of the estate or rent-free interest in which any part of such area is included, summarily determine the total area and the annual value of the cess-paying lands in such area which are included in any estate or rent-free interest, and shall prepare the valuation-roll for such estate or rent-free interest accordingly.

¹See foot-note 6 on page 482, *ante*.

²See foot-note 1 on page 486, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107F, 107G.)

¹107F. (1) The Collector shall publish a statement specifying—

- (a) the units, if any, into which he proposes to divide the district or part thereof ;
- (b) the acreage rate determined by him for the district or part thereof or for each unit ;
- (c) the classes of land which shall be cess-free ;

Preliminary publication of division of district into units, acreage rate and classes of cess-free lands.

with an explanation of the grounds for his proposals, in such manner and for such period as may be prescribed, and shall receive and consider any objections received regarding the same during the period of publication, and shall dispose of such objections according to such rules as the ²[State Government] may make.

(2) No such objection shall be considered except in regard to the units into which it is proposed to divide the district or part thereof, the acreage rate which has been determined, and the classes of land which shall be cess-free.

¹107G. (1) An appeal from any order of the Collector disposing of an objection under section 107F shall, if presented within thirty days from the date of the order, lie to the revenue authority appointed by the ²[State Government] in this behalf whose decision thereon shall, subject to the provisions of sub-section (2), be final.

Appeal to and revision by a revenue authority and final publication of division of district, acreage rate and classes of cess-free lands.

(2) The ²[State Government] and, subject to the control of the ²[State Government], the Board of Revenue may revise any estimate made under sub-section (2) of section 107D by any subordinate authority and any decision by any such authority relating to the division of a district or part thereof into units or to any acreage rate or to the classes of land which shall be cess-free.

(3) When the appeals, if any, under sub-section (1) have been disposed of, the Collector shall submit all his proceedings through the Commissioner of the Division and the Board of Revenue to the ²[State Government], and the ²[State Government], after making such modifications, if any, as it may

¹ See foot-note 6 on page 482, ante.

² See foot-note 1 on page 486, ante.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Sections 107H, 107-I.)

think fit, shall finally publish in the ¹[Official Gazette] a statement showing—

- (a) the units, if any, into which the district or part of a district will be divided,
- (b) the classes of land which shall be cess-free, and
- (c) the acreage rate or rates,

and the publication in the ¹[Official Gazette] shall be conclusive evidence that these have been duly determined under this chapter. The ²[State Government] shall forward a copy of the statement to the Collector for publication in the prescribed manner.

Rates at which cess to be levied.

³107H. (1) Notwithstanding anything contained in section 46 of the Bengal Local Self-Government Act of 1885, the ²[State Government] may, after considering the views of the District Board, determine for any district or part of a district the rates at which the road cess and the public works cess, respectively, shall be levied for each year on each rupee of the annual value of cess-paying land, and may from time to time vary such rates after considering the views of the District Board :

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-quarter anna on each rupee of such annual value.

(2) The rates so determined shall be published in the ¹[Official Gazette] and in the prescribed manner :

Provided that such publication shall not be necessary unless a change has been made in the rates since they were last published in the ¹[Official Gazette].

Preparation and publication of valuation-rolls, statements, and lists of lands.

³107-I. (1) The Collector shall prepare and publish in such form and in such manner as may be prescribed—

- (a) a valuation-roll in respect of every estate showing in addition to any other particulars, the total area and the total annual value respectively of the rent-paying and rent-free lands in the area under valuation other than cess-free lands comprised in the estate, and the land-revenue, if any, payable for the estate or portion of the estate under valuation ;

¹See foot-note 2 on page 486, ante.

²See foot-note 1 on page 486, ante.

³See foot note 6 on page 482, ante.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107J.)

(b) a valuation-roll of every rent-free interest showing in addition to any other particulars the annual value of the cess-paying lands in such interest, and whether the cess is payable to the Collector direct or to the holder of an estate or tenure other than the Collector. In the latter case, the name, number or other description of the estate or tenure within which the land is included shall be stated ;

(c) statements of the annual value of lands comprised in all other interests. The particulars contained in such statements shall be presumed to be correct until the contrary is proved.

Notwithstanding anything contained in any such statement the holder of an estate or tenure shall be entitled to recover from his tenant, and such tenant shall be bound to pay, the cess due on account of the land held or occupied by him according to the provisions of this chapter.

(2) The Collector shall also publish in the prescribed manner the lists of cess-free lands prepared under clause (b) of sub-section (1) of section 107E.

¹170J. (1) The Collector, may where he thinks fit and in particular in respect of rent-free interests, or where there has been a change since the last finally published record-of-rights in any area was prepared, on the last revaluation made under this chapter, owing to the addition or exclusion of lands by alluvion or diluvion or any other causes, call for returns to be filed by the holders of estates or tenures or the owners, holders or occupiers of rent-free interests in the prescribed form.

Power of Collector to call for returns from owners or holders of estates or other interests.

(2) Where the Collector requires such returns he shall publish a proclamation in the prescribed manner calling upon the holders of estates or tenures or the owners, holders or occupiers of rent-free interests concerned to file returns in the prescribed form and every such holder or occupier shall file, with full and correct information, the returns so called for within the time specified in the proclamation.

Each such return shall show, in addition to any other particulars, the total area, the area, if any, within the limits of a municipality and the particulars of any change in the area of such estate, tenure or interests, a specification of the lands added thereto or excluded therefrom, with an explanation of the reasons for such change, addition or exclusion, and the revenue or rent payable in respect of the estate, tenure or interest.

¹See foot-note 6 on page 482, ante.

[Ben. Act IX.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107K—107M.)

(3) If any holder of an estate or tenure or the owner, holder or occupier of rent-free interest fails to comply with the requisition for returns, he shall be subject to the provisions of sections 18, 19 and 20.

Copies of
or extracts
from
valuation-
roll to be
available
on pay-
ment of
fees.

¹107K. Copies of, or extracts from, the valuation-roll prepared under section 107-I shall be available to holders of estates or tenures or other interests or the owners, holders or occupiers of rent-free interests in such manner and on payment of such fees as may be prescribed.

Correction
of mistakes
in valua-
tion-roll.

¹107L. The Collector may, at any time, correct any *bona fide* clerical mistake in or omission from the valuation-roll.

Payment
of cess.

¹107M. (1) Every holder of an estate, other than ²[the Government] and every farmer of an estate, shall yearly pay to the Collector the total cess calculated on the annual value of the cess-paying lands included in such estate, at the rate or rates which may have been determined for the road cess and public works cess respectively for the year as in this chapter provided, less a deduction to be calculated at the said rates for every rupee of the land-revenue, if any, entered in the valuation-roll of such estate as payable in respect thereof, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the estate.

(2) Every holder, other than a rent-free holder, of a tenure or other subordinate interest comprising any cess-paying lands shall yearly pay to the person to whom his rent is payable the total cess calculated on the annual value of the cess-paying lands comprised in his tenure or interest, at the rate or rates which may have been determined for the road cess and public works cess for the year as in this chapter provided, less a deduction to be calculated at the said rates for every rupee of the rent payable; if any, by him for such tenure or interest, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the tenure or interest :

Provided that where the rent payable is equal to or greater than the annual value, no cess shall be payable by him.

Explanation.—In this sub-section the expression “rent payable” means, where the rent is payable in kind, the money value thereof.

¹See foot-note 6 on page 482, *ante*.

²See foot-note 4 on page 481, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107N, 107-O.)

(3) Every owner and holder of any rent-free land, and every person in receipt of the rents and profits or in possession or enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in which such land is included under the proviso to section 50, or to the Collector if the Collector has ordered that the cess shall be paid to him direct, the total cess calculated on the annual value of such land, not being cess-free land, at the full rate or rates which may have been determined for the road and public works cess as in this chapter provided.

¹107N. Notwithstanding anything contained in this Act, the Collector may, in accordance with rules to be made by the ²[State Government], at any time grant abatement or remission of any cess payable under this chapter.

Power to Collector to grant abatement or remission of

¹107-O. (1) The Collector shall cause to be served on every holder of an estate other than ³[the Government] and on every farmer of an estate, in the prescribed manner, a notice showing the amount of cess payable under sub-section (1) of section 107M in respect of his estate and specifying the date from which such cess will take effect.

Power to serve notice showing cess and fixing the date from which cess shall take effect.

(2) Notwithstanding anything contained in section 107M, the amount shown in the said notice shall be recoverable from the said holder or farmer other than ³[the Government].

(3) The Collector may at any time serve a revised notice on the said holder or farmer if he finds that the amount of cess payable under section 107M has not been correctly calculated or has not been correctly shown in the notice.

(4) In case of any change in the rate of cess it shall not be necessary to serve a revised notice but the amount of cess payable shall be proportionate to the changed rate.

(5) The notice issued under sub-section (1) shall include the cess payable in respect of the estate in all districts including cess, if any, payable under sub-section (1) of section 41 or section 51 on account of lands in respect of which a valuation or revaluation made under Chapter II is still in force, and no separate notice under section 40 shall be necessary :

Provided that if any lands valued or revalued in any district under this chapter appertain to an estate which is borne on the revenue-roll or general register of revenue-free lands of another district, and a valuation or revaluation under Chapter II is still in force in respect of any lands appertaining to that estate which

¹See footnote 6 on page 483, ante.

²See footnote 1 on page 486, ante.

³See footnote 4 on page 481, ante.

[Ben. Act IX

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107P—107R.)

are situated in the latter district, the Collector may issue a notice under section 40 showing the total cess payable in respect of the estate in all districts both under section 107M and under sub-section (1) of section 41 and section 51, and no separate notice under sub-section (1) shall be necessary.

Parti-
culars of
cess to be
specified in
receipt.

¹107P. (1) Where a tenant makes payment on account of cess to his landlord the rent-receipt granted by the landlord under section 56 of the Bengal Tenancy Act, 1885, shall specify the amount of cess paid by the tenant and the total cess demand payable by him correctly calculated by the landlord.

VIII of
1885.

(2) If the receipt does not contain substantially the particulars required by sub-section (1), it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands of cess payable by the tenant to his landlord up to the date on which the receipt was given.

Alteration
of annual
value and
revision of
valuation-
roll in
certain

¹107Q. (1) Notwithstanding anything contained in this Act, if at any time while any valuation or revaluation is in force it appears to the Collector that owing to alluvion or diluvion or other cause extensive changes have occurred in any land, and that in consequence thereof the annual value shown in the valuation-roll of any estate or rent-free interest should be altered, he may, after notice to the holder of such estate or rent-free interest and after making such inquiry as he considers necessary, enhance or reduce the annual value in such valuation-roll, and publish a revised valuation-roll of such estate or rent-free interest, and issue a revised notice under section 107-O, and may also, if necessary, amend any list published under section 107-I.

(2) When the Collector publishes a revised valuation-roll under sub-section (1), he may order that the revised valuation shall take effect from a date not being earlier than the beginning of the second financial year previous to the financial year in which the revised roll is published and cess shall be payable accordingly.

Rules.

¹107R. (1) The ²[State Government] may from time to time make, and when made, from time to time, alter, add to or cancel, any rule—

(a) regulating the determination of the acreage rate referred to in sub-section (1) of section 107D ;

¹See foot-note 6 on page 482, ante.

²See foot-note 1 on page 486, ante.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107S.)

- (b) regulating the preparation of the statement of cess-free lands and the lists of cess-free lands referred to in sub-section (1) of section 107E and prescribing the form of such lists ;
 - (c) prescribing the manner and period of publication of the statement referred to in sub-section (1) of section 107F, the method of disposal of objections under the said sub-section and the manner of final publication of the statement by the Collector under sub-section (3) of section 107G ;
 - (d) prescribing the manner of publication of the rates determined under section 107H ;
 - (e) regulating the preparation and prescribing the form and the manner of publication of valuation-rolls and statements of annual value of lands and the manner of publication of lists of cess-free lands under section 107-I ;
 - (f) prescribing the manner of publication of the proclamation under section 107J and the forms for, and contents of, the returns required under that section ;
 - (g) prescribing the manner of, and the amount of fees to be levied for, supplying extracts from or copies of valuation-rolls under section 107K ;
 - (h) regulating the abatement or remission of the cess under section 107N ;
 - (i) prescribing the manner of service of notice under section 107-O ; and
 - (j) generally to carry out the purposes of this chapter.
- (2) Such rules shall be published in the ¹[*Official Gazette*] and thereupon shall have the force of law :

Provided that any rule made under clause (h) of sub-section (1) shall be subject to the condition of previous publication.

²107S. For the purposes of this chapter—

- (i) the following provisions of this Act shall not be applicable, namely :—

The definitions of 'annual value of any land, estate or tenure', 'cultivating *raiyat*', 'estate', 'holding', 'tenure', 'the Collector' and 'the Collector of the district' in section 4 ; sections 6, 13, 14, 16, 17 and 21 to 35 ; in section 37 the words 'from making at any time any reduction which he may think fit in the valuation of any estate or tenure ; or' ; sections

Application of certain provisions of this Act to this chapter.

¹See foot-note 2 on page 486, *ante*.

²See foot-note 6 on page 482, *ante*.

[Ben. Act IX

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Section 108.)

38 to 40A, 41 except the last paragraph as in force in Western Bengal, 51 to 56, 59 to 64, the proviso to section 64A, sections 66 to 71, 89, 93 and the portion of section 102 after the word and figures 'section 78, to the word and figures 'section 35' ;

- (ii) all the other provisions of this Act shall be applicable *mutatis mutandis*, so far as the same may reasonably be applied, and subject to the following particular modifications, namely :—
- (a) in section 42, in sub-section (1), after the words 'revenue-paying estate' and in sub-section (2) after the words 'revenue-free estate' the words 'other than Government, and every farmer of an estate' shall be deemed to be inserted ;
 - (b) in sub-section (3) of the said section, for the words 'cultivating *raiya*' and for the word '*raiya*' in the two other places where it occurs the words 'holder of any other subordinate interest in land' shall be read ;
 - (c) in section 47, after the word 'tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted ;
 - (d) in section 48, after the words 'in an estate or tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted.

PART III.

Constitution and Administration of the District Road Fund.

CHAPTER VIII.

CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND.

Constitu-
tion of
District
Road
Fund.

108. The District Road Fund of every district under this Act shall consist of the amount produced by the road cess, of all sums levied or recovered ^{1*} * in respect of the cesses under this Act ²[not being fines or penalties and] ³[not being interest levied in respect of public works cess,]

¹The words "as fines, penalties or otherwise" were omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were inserted, *ibid*.

³These words were inserted by sec. 10 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

of 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter VIII.—*Constitution and application of the District Road Fund.*—Section 109.)

of all sums assigned by ¹[any Government] thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise.

* * * * *

³109. The District Road Fund of every district shall be applicable to the following objects and in the following order :—

Application
of District
Road
Fund.

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.

And the balance, after payment of such expenses, shall be credited to the District Fund of the district ⁴[and shall be applicable to the following objects, and in the following order, namely :—

- (a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans ;
- (b) the payment of the percentage referred to in clause *Thirdly* of section 53 of the said Act ;
- (c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause *Fourthly* of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts ;

Ben. Act
III of 1885.

¹These words were substituted for the words "the Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²The words "and of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed" were omitted by sec. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

³Section 109 was substituted for the original section 109 by sec. 2 of the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885).

⁴The portion which is enclosed within square brackets were added by sec. 64 of the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908). The said Act was extended to Eastern Bengal by Ben. Act I of 1914.

[Ben. Act IX

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter VIII.—*Constitution and application of the District Road Fund.*—Part IV.—Chapter XIII.—*General.*—Sections 110—182.)

(d) the payment of such of the expenses referred to in clause *Fifthly* of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act ;

(e) the payment of the expenses referred to in clause *Seventhly* of section 53 of the said Act ; and

(f) the making of investments referred to in clause *Eighthly* of the said section 53.]

[110 to 181.]—*Rep. by sec 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885.)*

PART IV.

CHAPTER XIII.

GENERAL.

State Government empowered to prescribe forms and rules.

182. The ¹[State Government] may from time to time make, and, when made, from time to time alter, add to or cancel, any rules, not inconsistent with the provisions of this Act,—

[(a) to (c)]—*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) ;*

(d) prescribing forms of accounts to be kept by the Collector under this Act ;

[(e)]—*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) ;*

(f) fixing the dates for payment of instalments of cess under sections 42 and 57 ;

[(g) and (h)]—*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) ;*

(i) and generally for the purposes of this Act.

Such rules shall be published in the ²[*Official Gazette*] and shall thereupon have the force of law.

¹ See foot-note 1 on page 436, *ante*.

² See foot-note 2 on page 436, *ante*.

of 1880.]

(Schedule A.)

SCHEDULE A.

Form of return prescribed by section 14.

Amount of Government revenue or rent payable by the estate or tenure :

Rs. a. p.

PART I.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return :—

1	2	3	4	5
<i>Pargana.</i>	Name of village and <i>thana</i> in which the lands are situate.	Area of land ¹ [if known].	Deduct area of land situate within any municipality.	Annual value of remaining land.

¹Note.—In the body of this statement should be entered only *nijjat* lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value.

¹These words in the heading of column 3 of Part I were inserted by sec. 11 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

²This note to Part I was substituted for the original note, *ibid.*

(Schedule A.)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating *raiya*s paying direct to the persons submitting the return :—

1	2	3	4	5	6	7
<i>Pargana</i> .	Name of village and <i>thana</i> in which the lands are situate.	Name of <i>raiya</i> , name of village, <i>thana</i> and district in which he resides.	Area occupied ¹ [if known].	Annual rent.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART III.

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return

1	2	3	4	5	6	7	8
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village <i>thana</i> and district in which such person resides.	Name of village and <i>thana</i> in which tenure is situated.	Name of village and <i>thana</i> in which <i>mal-entoherry</i> is situate.	Area, if known.	Annual rent paid by tenure-holder.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART IV.

District

Name and number of estate or tenure as in Part I.

¹These words in the heading of column 4 of Part II were added by sec. 12 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

of 1880.]

(Schedule B.)

Details of lands included in the estate or tenure of the person submitting the return which are held by others than himself but for which no rent is paid :—

1	2	3	4	5	6	7
<i>Pargana</i> in which situate.	Name of village and <i>thana</i> in which situated.	Name of holder, and owner, if known.	Name of village, <i>thana</i> and district in which the holder resides.	Area, if known.	Deduct area of land included in any municipi- pality.	Annual value of remaining land.

I, X, Y, Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

FORM NO. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

The holders of estate or tenure (*description to be filled in*) in the district of _____ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of

(Schedule B.)

such time or of any extended time which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rent is due to the holders of the said estate (*or* tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

FORM NO. II.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

The holder of the revenue-free estate of rent-free tenure (*description to be filled in*) in the district of _____ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

Notice is hereby given that no rents due to the holders of the said estate (*or* tenure) can be recovered by suit after such time until such return be so lodged.

of 1880.]

(Schedule C.)

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Collector.

N. B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

SCHEDULE C.

Form of Notice under section 33.

District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880.

The owner, the chief agent, manager or occupier of (give the name by which the concern or property is known) situated in the district of , is hereby required to lodge in the office of the Collector of of a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said .

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period of extension thereof until such return shall be presented.

Form of return to the Notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from .

[Ben. Act IX

(Schedule D.)

Government and used for the cultivation of tea, coffee or cinchona, under the control of the person submitting the return :—

1	2	3	4	5	6	7
Districts.	<i>Parganas</i> and <i>thanas</i> .	Designation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation.	Aggregate value at Rs 10 per acre of land in '[column 6].
in which the lands lie.						

I, X. Y. Z., do declare the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed————

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE D.

Form of Notice under section 52.

NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER SECTION 52 OF THE
CESS ACT, 1880.

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation-returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

¹This word and figure in the heading of column 7 were substituted for the word and figure "column 5" by sec. 18 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

Schedule E,—

503

(1) before the existing form, insert the following form, namely:

required to lodge in the office of the Collector of the district of..... a return in the form hereunto annexed showing the despatches of coal from.....

(2) in the existing form,—

(a) for the heading, substitute the following heading, namely:—

“Form No. II.

Form of Notice under section 72 in respect of properties other than coal mines.”; and

(b) after the figures “1880”, add the words “in respect of properties other than coal mines”.

(Inserted, substituted and added by West Ben. Act XXIII of 1964, section 12.)

[No. 1, dated the 1st January, 1969.]

District..... Year.....

Details of yearly despatches from the coal mine in the possession or under the control of the person submitting the return:—

District | Pargana

in which the coal mine lies.

Annual despatches per annum in tonnes on the average of the last three years for which accounts have been made up.

Name of holder or manager

Remarks;

Coal.	Tonnage of coke despatched.	Tonnage in terms of coal.	Total despatches to be assessed.

tramways or other control of the person

annum on the average of which accounts have been made up.

I, X.Y.Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.

N.B.—This return must be signed by the owner, Chief agent, manager or occupier.”;

[Ben. Act IX of 1880.]

(Schedules F. G.)

I, X, Y, Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.....

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under section 99.

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

The occupiers, tenure-holders, under-tenants, and *rai-yats* on estate or tenure (*the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within such estate or tenure except to the Collector of the said district or to (*name of person*) hereby appointed to receive the same. The Collector will grant receipts for all sums paid ; and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order will be null and void.

(Sd.) A. B.,

Collector.

¹SCHEDULE G.

Name of districts in which, or in parts of which, valuation or revaluation shall be made under Chapter VIIA.

- | | |
|-----------------|--------------------------|
| 1. Burdwan. | ** |
| 2. Bankura. | ² 7. Maldah. |
| 3. Midnapore. | ⁴ Birbhum. |
| 4. 24-Parganas. | ⁴ Hooghly. |
| 5. Nadia. | ** |
| 6. Murshidabad. | ⁴ Jalpaiguri. |

¹Sch. G was added by sec. 18 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²Items (7) Jessore, (8) Khulna, (9) Dacca, (10) Mymensingh, (11) Faridpur, (12) Noakhali, (13) Tippera, (14) Rajshahi, (15) Bogra and (16) Pabna and Rangpur were omitted by Article 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴Item No. 17 was renumbered as item No. 7, *ibid*.

⁴These Districts were included by notification No. 866T.R., dated the 30th September, 1940, published in the *Calcutta Gazette* of 1940, Pt. I, page, 2907.

Bengal Act V of 1881

(THE CALCUTTA BURIAL BOARDS ACT, 1881.)¹

REPEALED IN PART	..	Act I of 1903.
AMENDED ..	..	{ Ben. Act I of 1939. Ben. Act XVI of 1946.
ADAPTED ..	..	{ (a) The Government of India (Adap- tation of Indian Laws) Order, 1937. (b) The Indian Independence (Adap- tation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(20th July, 1881.)

An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs.

WHEREAS it is expedient to make better provision for the general management, regulation and control of the Government burial-grounds in the town of Calcutta and its suburbs ; It is hereby enacted as follows :—

Preamble.

1. This Act may be called the Calcutta Burial ²[Boards] Act, 1881.

Short title.

(Commencement)—*Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).*

2. The ³[State Government] of ⁴[West Bengal] may, by a notification published in the ⁵[Official Gazette], appoint a Burial Board for the Town and Suburbs of Calcutta.

State Government may appoint a Burial Board.
Constitution of Board.

3. The Board shall be constituted as follows :—

⁶[the Executive Officer of the Corporation of Calcutta] the Health Officer of Calcutta

an Officer of the Public Works Department, to be appointed by the ³[State Government] of ⁴[West Bengal] :

the Senior Chaplain of St. John's Church in Calcutta ;

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1881, Pt. IV, page 6 ; and for the Proceedings in Council, see *ibid*, Supplement, 1881, pages 187, 205 and 261.

LOCAL EXTENT.—This Act extends only to the town and suburbs of Calcutta—see the title and the preamble.

²Substituted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946) for the word "Board's"

³The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the word "Bengal" by para. 3(?) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶These words were substituted for the words "the Chairman of the Calcutta Corporation" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

[Ben. Act V

(Sections 4—8.)

a clergyman of the Church of Rome, to be nominated by the Archbishop and Vicar Apostolic of Western Bengal ;

a Protestant Non-conformist Minister, to be nominated by the ¹[State Government] of ²[West Bengal] ;

not less than three and not more than six other members to be nominated by the ¹[State Government] of ²[West Bengal].

The ¹[State Government] may, from time to time, relieve any member of the Board nominated by ³[it] of his functions as such member.

4. The Chairman of the Board shall be nominated by the ¹[State Government] of ²[West Bengal].

Chairman to be appointed by State Government.

5. The ¹[State Government] of ²[West Bengal] may, by a notification published in the ⁴[*Official Gazette*], place under the control of the Board all or so many of the Government burial-grounds (not being military burial-grounds) situate in the town or Suburbs of Calcutta as to ³[it] shall seem fit ; and the general management, regulation and control of such burial-grounds shall, subject to the provisions of this Act, be thereupon vested in, and exercised by, the Board.

State Government may place Government burial-grounds under the Board.

Board to receive and account for fees and grants.

6. The Board shall receive all fees and other moneys paid or given in respect of the use of such burial-grounds, and the erection of monuments therein, and such grants as ⁵[any Government] may from time to time place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management of the same, and shall submit accounts of such receipts and expenditure once in every year to the ¹[State Government] of ²[West Bengal], in such form and manner as the ¹[State Government] may direct.

Board may appoint subordinate establishment.

7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

Power to make rules.

8. The Board may, with the sanction of the ¹[State Government] of ²[West Bengal], from time to time make such rules consistent with the purposes of this Act, as they may think necessary for any of the following purposes ; that is to say :—

(a) for regulating the times when the Board shall meet and the procedure to be observed at such meetings ;

¹ See foot-note 8 on page 505, *ante*.

² See foot-note 4 on page 505, *ante*.

³ This word was substituted for the word "him" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ See foot-note 5 on page 505, *ante*.

⁵ These words were substituted for the word "Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1881.]

(Sections 9, 10.)

(b) for securing the preservation, repair or removal of existing monuments and for regulating the dimensions and erection of new monuments, in any burial-grounds under their charge ;

(c) for regulating the mode of payment of fees, charges and other dues in respect of interments in any such burial ground and for the expenditure of the same ;

(d) for directing the manner in which and the persons by whom all works within any such burial-ground shall be executed ; and

(e) for otherwise carrying out the purposes of this Act ;

and may from time to time, with the sanction aforesaid vary, alter or revoke any such rules so made.

All rules so made and variations, alterations or revocations of rules shall be published in the ¹[*Official Gazette*].

9. The ²[State Government] of ³[West Bengal] may ⁴* * at any time withdraw any burial-ground from the control and management of the Board.

Power to withdraw burial-grounds from control of Board.

10. It shall be lawful for the proprietors of any Christian burial-ground, with the sanction of the ²[State Government] of ³[West Bengal], to place the same under the management, regulation and control of the Board, on such terms and conditions as the ³[State Government] may approve : and such burial-ground shall thereupon be managed in all respects as a Government burial-ground subject to the provisions of this Act.

Provision for making over private cemeteries to charge of Board.

¹See foot-note 5 on page 505, *ante*.

²See foot note 3 on page 505, *ante*.

³See foot-note 4 on page 505, *ante*.

*The words "in his discretion" were omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

Bengal Act II of 1882

(THE BENGAL EMBANKMENT ACT, 1882.)

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of 1882.]

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Bengal Act II of 1882

(THE BENGAL EMBANKMENT ACT, 1882.)¹

EXTENDED . .	Ben. Act IV of 1915.
REPEALED IN PART	{ Act IX of 1890. Act I of 1903. Ben. Act IV of 1915.
AMENDED . .	{ Ben. Act I of 1931. Ben. Act VIII of 1933. Ben. Act VI of 1945. West Ben. Act XI of 1948.
REPEALED IN PART AND AMENDED.	{ Ben. Act V of 1915. Ben. Act I of 1939.
ADAPTED . .	{ (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(21st June, 1882.)

An Act to amend the law relating to Embankments and Water-courses.

WHEREAS it is expedient to make better provision for the construction, maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal² ; Preamble.

It is enacted as follows :—

PART I.

PRELIMINARY.

This Act may be called the Bengal Embankment Act, Short title.
1882.

2. The Bengal Embankment Act, 1882 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended in the manner hereinafter provided. Application of the Act.

Amending Act, 1903 (1 of 1903).

¹LOCAL EXTENT.—This Act originally extended to the whole of the Presidency of Fort William in Bengal except the Sundarbans, but it has since been extended to the Sundarbans by the Embankment (Sundarbans) Act, 1915 (Ben. Act IV of 1915).

²This includes the present State of West Bengal and other territory.

³Substituted for the original second para. of sec. 1 by para. 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴The word "States" was substituted for the word "Provinces" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵The word "State" was substituted for the word "Province", *ibid.*

[Ben. Act II

(Part I.—Preliminary.—Sections 2, 3.)

Repeal of
former
Acts.

2. ^{1*} * * * * * ^{2*}[the Bengal Embankment Act, 1873], with the exception of the sections set out and schedules specified in Schedule I to this Act annexed, shall be repealed.

Ben. Act
VI of
1878.

The references in the said sections, which are mentioned in Schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule.

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act VI of 1873.¹

Interpre-
tation.

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears :—

“Collector”.

“Collector” means any Revenue-officer in independent charge of a district or portion of a district, or specially appointed by the ³[State] Government of ⁴[West Bengal] to perform the functions of a Collector under this Act :

“district”

“district” means the local area throughout which a Collector is authorised to exercise his ordinary functions :

“embankment”.

“embankment” includes—

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon, any land ;

every sluice, spur, groyne, training-wall, ⁵[berm] or other work annexed to, or portion of, any such embankment ;

every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters ;

and also all buildings intended for purposes of inspection and supervision :

“estate”.

“estate” means any land or share in land included under one entry on the general register of revenue-paying lands and

¹The words “From such day” were repealed by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

²These words and figure were substituted for the words, figures and brackets “Bengal Act VI of 1873 (to amend the law relating to embankments and water-courses “by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1933 (Ben. Act I of 1933).

³Substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴Substituted for the word “Bengal” by para. 3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵This word was inserted by sec. 2 of the Bengal Embankment (Amendment) Act, 1981 (Ben. Act I of 1981).

of 1882.]

(Part I.—Preliminary.—Section 3.)

Ben. Act
VII of
1876.

of revenue-free land prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force :

“land” includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth :

“land.”

“public embankment” means an embankment maintained by the ¹[servants of the Government] :

“public embankment.”

“public water-course” means a water-course under the charge of the ¹[servants of the Government] :

“public water-course,”

“section” means a section of this Act :

“section.”

“tenure” includes all interest in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined :

“tenure.”

“the Engineer” means the Engineer in charge of the public embankments of the district or any part thereof, or any Engineer specially appointed by the ²[State Government] to perform the function of an Engineer under this Act in respect of any tract of country or any works :

“the Engineer.”

“water-course” includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water :

“water-course.”

“*zamindar*” means all or any of the holders of an estate : and, where two or more *zamindars* are jointly holders thereof, they shall be jointly and severally liable under this Act.

“*zamindar*.”

Explanation.—For the purposes of Part VI the ³[State Government] shall be deemed to be *zamindar*—

(a) of every estate of which the *zamindari* title is not vested elsewhere than in the ⁴[Government] ;

(b) of every estate which is let in farm or held *khais* under the provisions of section 43 of Regulation VIII of 1793⁵ in consequence of the proprietor refusing or omitting to engage for the settlement thereof.

¹The words “servants of the Crown” were first substituted for the words “officers of Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “Government” was substituted for the word “Crown” by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words “Provincial Government” were first substituted for the word “Lieutenant-Governor” by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

³The words “Provincial Government” were first substituted for the word “Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “State” was substituted for the word “Provincial” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴The word “Crown” was first substituted for the word “Government” by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “Government” was substituted for the word “Crown” by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵The Bengal Decennial Settlement Regulation, 1793.

[Ben. Act II

(Part I.—Preliminary.—Sections 4—6.)

Public
embank-
ments,
etc., to
vest in
Govern-
ment.

4. Every public embankment and every public water-course, and all land, earth, pathways, gates, berms and hedges belonging to, or forming part of, or standing on, any such embankment, or water-course and every embanked tow-path maintained ¹[by the State Government], shall vest in ²[the State Government].

The embankments mentioned in Schedule D annexed to Bengal Act VI of 1873³ and every embankment and water-course which may be included in such schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf ⁴[of the State Government] ; and all other public embankments and water-courses shall be held ¹[by the State Government] on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of section 87 ; and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.

Survey of
lands
hitherto
used for
obtaining
earth for
repairs.

5. All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the ⁵[State Government] for such purpose, without payment of compensation for the use or removal of such earth or other materials.

The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated.

Notifica-
tion.

6. The ⁶[State Government] may, from time to time, by notification in the ⁷[Official Gazette] declare the limits of any tract within which the provisions of clause (b), section 76, shall take effect ;

and the said provisions shall take effect one month after the publication of such notification.

As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in section 80.

¹The words "by the Provincial Government" were first substituted for the words "by Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words "in the Crown for the purposes of the Province" were originally substituted for the words "in the Government", by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order 1937. Thereafter, the words "the State Government" were substituted for the said words by para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

³The Bengal Embankment Act, 1873.

⁴The words "of the Provincial Government" were first substituted for the words "of the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵See foot-note 3 on page 515, *ante*.

⁶See foot-note 2 on page 513, *ante*.

⁷These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1882.]

(Part II.—Powers of Collector and Procedure thereon ; Embankment Committees.—Section 7.)

PART II.

POWERS OF COLLECTOR AND PROCEDURE THEREON ; EMBANKMENT COMMITTEES.

7. Subject to the provisions of part III, whenever it shall appear to the Collector that any of the following acts should be done, ¹[or works (including any work of repair) executed], that is to say :—

Powers of Collector.

(1) that any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or that any embankment or water-course which is necessary for the protection or drainage of the neighbouring country, should be taken charge of and maintained by the officers of Government ;

Taking charge of embankment by Government.

²(1a) that any embankment which connects public embankments or forms by junction with them part of a line of embankments or is necessary for the protection of the neighbouring country should be repaired ;

Repair of embankments.

(2) that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or the flood drainage of any tract of land, should be removed or altered ;

Removal of embankment or obstruction.

(3) that the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water-course, or that a sluice in any public embankment should be made ;

Changing line of embankment.

(4) that any sluice or water-course should be made, or that any public water-course should be altered for the improvement of the public health, or for the protection of any village or cultivable land ;

Improvement of drainage.

(5) that any road which interferes with the drainage of any tract of land should be altered, or that any water-course under or through such road should be constructed ;

Alteration of roads and construction of water-courses.

he shall cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the rules for the time

¹Substituted by sec. 2 of the Bengal Embankment (West Bengal Amendment) Act, 1948 (West Ben. Act XI of 1948), for the words "or works executed"

²Inserted, *ibid.*

[Ben. Act II

(Part II.—Powers of Collector and Procedure thereon ; Embankment Committees.—Sections 8—12.)

being in force under this Act, or as may be especially ordered by the ¹[State Government] together with such plans and specifications of the same as may be required. He shall also cause to be prepared from the survey map of the district a map showing the boundaries of the lands likely to be affected by the said acts and works, and he shall cause a general notice to be given of his intention to cause such works to be executed.

Form of
notice.

8. Such general notice shall as far as possible be in the form, and state the particulars mentioned, in Schedule III to this Act annexed ; and to it shall be annexed a list of all estates and villages, as far as is known, which are likely to be affected by the proposed work and to be chargeable in respect of the expenses of executing the same ; and a copy of the said estimates, specifications and plans, together with a copy of the map as aforesaid, shall be deposited in the office of the Collector, and shall be open to the inspection of any persons interested, who shall be allowed to take copies thereof.

Proclama-
tion to be
published
for thirty
days.

9. Every such general notice shall be published in the manner provided by section 80 not less than 30 days before the day appointed for hearing the persons interested.

Hearing
of objec-
tions to
works.

10. The Collector shall, on the day appointed for the hearing, or on any subsequent day to which the hearing may be adjourned, hold an inquiry and hear the objections of any persons who may appear, recording such evidence as he may deem necessary.

Order
after
inquiry.

11. After holding such inquiry the Collector shall proceed as follows, that is to say :—

- (a) if he considers that the proposed act or work, or any modification of the same, should not be done or executed, he shall record his opinion to that effect ;
- (b) if he considers that the proposed act or work, or any modification of it, should be done or executed, he shall submit a report to the Commissioner of the Division.

Order of
Commis-
sioner.

12. On receipt of a report submitted under section 11, the Commissioner, after making any further inquiry which he may deem necessary, may record an order refusing to support the proposal made in the report of such Collector for the execution of such work ;

or may forward the report submitted by such Collector, together with any remarks he may think proper, for the consideration of the ²[State Government.]

¹See foot-note 2 on page 515, *ante*.

²The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1882.]

(Part II.—Powers of Collector and Procedure thereon ; Embankment Committees.—Sections 13—17.)

13. [Order of Board.]—Rep. by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

14. On receipt of ¹[the report forwarded by the Commissioner] the ²[State Government] shall proceed to consider the same and may order that the proposed act or the proposed work, or any modification thereof, be done or executed.

Order of State Government.

Every such order shall be notified in the ³[Official Gazette].

15. Notwithstanding anything contained in this part, the ²[State Government] may by a special order passed in respect of any act or work specified in section 7, or by a general order in respect of any class of such acts or works, authorize the Collector, after holding such inquiry as is prescribed in section 10, without previous reference to any superior authority, to pass an order that such act or work or any modification thereof may be done or executed ; or the ²[State Government] may authorize the Commissioner ⁴* * * * * to pass such order without previous reference to any superior authority :

Special powers which may be conferred by State Government.

Provided that every order passed under the authorization of the ²[State Government], given under this section shall be subject to the provisions of section 85.

16. [Alteration of railroads and construction of water-courses.]—Rep. by the Indian Railways Act, 1890. (IX of 1890).

17. Whenever an order shall have been passed in cases falling under section 7, clause (5), ⁵* * * * * directing that any road ⁶* * * which interferes with the drainage of any tract of land be altered, or that any water-course be constructed under or through such road ⁶* * * the Collector may require the person in charge of such road ⁶* * * to make such alteration or construct such water-course, and in the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the Collector may cause the road ⁶* * * to be altered or the water-course to be constructed by the officers of Government.

Procedure of Collector.

¹These words were substituted for the words "such report from the Board" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²See foot-note 2 on page 515, ante.

³See foot-note 7 on page 516, ante.

⁴The words "or the Board of Revenue" were omitted by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁵The words "or under the section last preceding" were repealed by the Indian Railways Act, 1890 (IX of 1890).

⁶The words "or railroad" were repealed, *ibid.*

⁷The proviso to the first paragraph of sec. 17 was repealed, *ibid.*

(Part II.—Powers of Collector and Procedure thereon ; Embankment Committees.—Sections 18, 19.)

Expenses
of alter-
ation
of con-
struction.

The expenses of such alteration or construction shall be borne by the person in charge of the said road ¹* * * * so far as the same shall have been incurred on account of insufficient provisions having been made at the time of the construction of the said road ¹* * * * for the natural drainage then existing, and the remainder of the expense, if any, shall be charged upon, and recovered from, the proprietors of the lands benefited in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between the person in charge of a road ¹* * * and the proprietors of the lands benefited, the dispute shall be decided by the ²[State Government], whose decision shall be final.

Applica-
tion for
new
luices,
embank-
ments
or
drainage.

18. (a) If any person desires that a sluice be made in any public embankment for the purpose of drainage or irrigation,

(b) or, if within any tract of country which has been included within a notification under section 6, any person desires that any new embankment be created, that any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered, or that any new water-course be made, or that any water-course be obstructed or diverted,

he may make an application in writing to the Collector.

The application shall contain such particulars of the land likely to be affected by the work as may enable the Collector to judge of the advantage which may be derived from the project.

If it should appear to the Collector that the work applied for is one which may probably be executed with advantage the procedure mentioned in the 7th and following sections of this Act shall be followed in respect of the proposed work.

Power to
remove
houses,
etc.

19. Whenever the Collector, after considering any report of the Engineer or otherwise, shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary,

or that land is required for widening an existing embanked tow-path, or for constructing a new embanked tow-path,

he shall make a report to that effect to the Commissioner, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, or of the land required.

Such report shall be submitted ³[to the State Government] in order that proceedings may be taken for obtaining possession of such trees, houses, huts, and buildings or land in accordance with

¹ See foot-note 6 on page 519, *ante*.

² See foot-note 2 on page 515, *ante*.

³ The words "to the Provincial Government" were first substituted for the words "in the usual manner through the Board of Revenue to the Lieutenant-Governor" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915). Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1882.]

(Part II.—Powers of Collector and Procedure thereon ; Embankment Committees.—Sections 20—24.)

I of 1894.

the provisions of the Land Acquisition Act, ¹[1894], or other law for the time being in force for the acquisition of land for public purposes.

20. If any works proposed to be undertaken in accordance with this Act, or the lands which are likely to be affected by such works, are situated within the limits of different districts, the Collector of any district within which any portion of such works or lands is situated may apply to the Commissioner of the Division for authority to proceed in such matter ; and the Commissioner of the Division, with the concurrence of any other Commissioner within whose Division any such lands are situated, may give authority to such Collector, or to any other Collector within whose district any portion of such lands is situated, to carry out all or any proceedings under this Act in respect of all the lands affected by such works.

Authority to take proceedings where lands likely to be affected by the works are in different districts.

21. The ²[State Government] may, if ³[it] think fit, appoint an Embankment Committee for any district, and may from time to time appoint and accept the resignation of the members of such Committee, and direct that any person shall cease to be a member thereof.

State Government may appoint Embankment Committee.

22. The ²[State Government] may from time to time direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act ; and by a notification published in the ⁴[Official Gazette] may from time to time direct that any such function or duty shall be performed or discharged by such Committee.

Consultation of Committee by Collector.

23. The business of every such Committee shall be conducted under such rules as the ²[State Government] may from time to time make in that behalf.

Business of Committee.

24. Whenever, in any matter on which the ²[State Government] has directed that the Collector shall consult the Committee, the Collector may differ from the Committee, he shall, if so required by the Committee, submit the question to the Commissioner of the Division for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

Reference to Commissioner.

¹This figure was substituted for the figures and word "X of 1870" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 2 on page 515, *ante*.

³This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴See foot-note 7 on page 516, *ante*.

. [Ben. Act II

(Part III.—*Procedure in Cases of Imminent Danger to Life or Property.*—Part IV.—*Powers of the Engineer.*—Sections 25—28.)

PART III.

PROCEDURE IN CASES OF IMMINENT DANGER TO LIFE OR PROPERTY.

Proceed-
ings in
emergen-
cies.

25. Whenever the Collector shall be of opinion that the delay in the execution of any work occasioned by proceedings commenced by a general notice under the 7th and following sections of this Act would be attended with grave and imminent danger to life or property, he may forthwith cause the execution of such work to be begun in anticipation of the completion of such proceedings :

Provided that he shall without delay cause to be prepared the estimates, specifications and plans of the proposed works, together with a copy of the map as provided in section 7, and shall cause general notice to be given that the work mentioned therein has already been commenced ; and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act are directed.

Restora-
tion of
embank-
ments, etc.

26. Whenever it may have been determined in the final order to be passed on any such inquiry that anything done by the Collector or by the Engineer under the last preceding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the ¹[State Government] to be assessed according to the provisions contained in Part V of this Act ; and, on receipt of any application to that effect by the Collector from any such person affected the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be, at the expense of the ¹[State Government], restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part.

Authority
to take
proceed-
ings
where
lands in
different
districts.

27. If any portion of the land likely to be affected by any work to be undertaken under this Part lies within another district, the Collector who causes the work to be executed shall, when commencing upon it, give notice of the same to the Collector of such other district ; and the provisions of section 20 shall be applicable to all proceedings connected with the work and the cost thereof.

PART IV.

POWERS OF THE ENGINEER.

Engineer
subject to
control of
Collector.

28. The powers conferred on the Engineer under this Act shall be exercised subject to the the general control and orders of the Collector.

¹See foot-note 8 on page 515, ante.

[of 1882.]

(Part IV.—Powers of the Engineer.—Sections 29—32.)

29. In cases in which the Engineer may be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the Collector by section 25.

Power to Engineer to act in urgent cases.

The Engineer shall forthwith report to the Collector any action taken by him under this section and shall be guided by any instructions which he may receive from the Collector in respect thereof.

30. The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

Power to make repairs.

31. Whenever any person desires that a temporary roadway should be made over, or that a temporary water-course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer, or to any person who has been appointed in that behalf by the Engineer.

Power to make temporary roadway, water-course or dam.

Such Engineer or person shall communicate the application with his opinion to the Collector, and shall await the Collector's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without waiting for the orders of the Collector.

If the proposed work is to be executed by an officer of ¹[the Government], the applicant, before the commencement of the work, shall deposit the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making, closing or removing such water-course or dam.

If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant.

32. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

Sluices to be opened or shut under authority of the Engineer.

¹The words "the Crown" were first substituted for the word "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act II

(Part IV.—Powers of the Engineer.—Sections 33—36.)

Powers to enter and survey land, etc.

33. It shall be lawful for the Engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act,—

to enter upon, and survey, and take levels of any land ;

to dig or bore into the sub-soil ;

to do all other acts necessary to ascertain whether the land is adopted to the purpose projected by such Engineer or by the Collector ;

Power to mark out line.

to set out the boundaries of the land proposed to be taken and the intended line of the work proposed to be made thereon ;

to mark such levels, boundaries and line, by placing marks and cutting trenches ;

Power to clear land.

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle :

Previous notice of entry.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

The Engineer or other person so authorized shall at the time of such entry tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Power to take earth from lands.

34. Whenever it is deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by ¹[State Government], it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon the lands mentioned in section 5, and take possession of, appropriate and remove any earth or other material therefrom, and use the same for the purposes of such repairs.

Procedure where crops on such lands.

35. The Collector shall proceed in respect of any crops standing on such land as provided in section 13, Bengal Act VI of 1873² ; and the provisions of that section shall be applicable to claims for the payment of compensation for damage done to such crops.

Acquisition of land made permanently unfit for cultivation.

36. When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the ³[State Government] shall, upon application for that purpose made by the owner thereof,

¹ See foot-note 3 on page 515, *ante*.

² The Bengal Embankment Act, 1873.

³ See foot-note 2 on page 518, *ante*.

of 1882.]

(Part IV.—Powers of the Engineer.—Part V.—Acquisition of Lands and Compensation.—Sections 37—40.)

X of 1870. acquire such lands under the provisions of the Land Acquisition Act, 1870^a, or other law for the time being in force for the acquisition of land for public purposes.

PART V.

ACQUISITION OF LANDS AND COMPENSATION.

37. Whenever, in the course of proceedings under this Act, save in those cases in which the Collector has proceeded under the provisions of sections 12 and 13, Bengal Act VI of 1873^a, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, ^a[1894], or other law for the time being in force for the acquisition of lands for public purposes.

Acquisition of land.

I of 1894.

38. Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right of the use of water or other right or property, shall have been injuriously affected by any act done or any work executed under the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation :

Compensation for consequential damage.

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

39. No claim under the last preceding section shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected.

Limitation to claim for compensation.

40. When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provisions of the Land Acquisition Act, ^a[1894], or other law for the time being in force for the acquisition of land for public purposes.

Procedure for determining compensation.

^aSee now the Land Acquisition Act, 1894 (I of 1894), which repeals and re-enacts Act X of 1870.

^aThe Bengal Embankment Act, 1873.

^aThis figure was substituted for the word and figures "X of 1870" by sec. 2 and First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

(Part V.—Acquisition of Lands and Compensation.—Part VI.—
Cost of Works, Proceedings, etc.—Sections 41, 42.)

Matters to be considered in determining compensation.

41. In any such case which is referred to the Judge and assessors for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Judge and assessors shall take into consideration—

First, the market-value of the property or right injuriously affected at the time when the act was done or the work executed ;

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right ;

Thirdly, the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed ;

Fourthly, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person.

Matters not to be considered in determining compensation.

But the Judge or assessors shall not take into consideration—

First, the decree of urgency which has led to the act or work being done or executed ;

Secondly, any damage sustained by the claimant, which if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

PART VI.

COST OF WORKS, PROCEEDINGS, ETC.

1.—Ascertainment thereof.

Embankments in Schedule D.

42. The provisions of section 47 and the following sections in this Part contained shall not apply to any of the embankments mentioned in Schedule D to Bengal Act VI of 1873¹ annexed, or which may be hereafter included therein, save so far as any works or repairs are executed therein, or in relation thereto under the provisions of section 18 or of section 31 ; or to any of such embankments as may hereafter be erected for the protection of lands which at the commencement of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule.

¹The Bengal Embankment Act, 1873.

of 1880.]

(Part VI.—Cost of Works, Proceedings, etc.—Sections 43—45.)

All sums payable in respect of any works or repairs executed in or in relation to the embankments mentioned in the aforesaid schedule, except under the provisions of section 18 or of section 31, shall be paid by the ¹[State Government].

43. If at any time after the commencement of this Act, on inquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in the said Schedule D, or any embankment or water-course which may have been included in the said Schedule D under the clause next following of this section, the ²[State Government] may direct that the same shall be no longer included in the said schedule :

Exclusion from Schedule D.

Provided that the ³[State Government] may restore the same to the said schedule if on any subsequent inquiry similarly conducted it shall appear to the ³[State Government] that it is necessary so to do.

The ³[State Government] may, at any time after the passing of this Act, by a notification published in the ³[Official Gazette], direct that any embankment not mentioned in the said Schedule D or any water-course, be included therein and the provisions of this section shall apply to such embankment or water-course.

Addition to Schedule D.

44. In accordance with the custom heretofore in force in respect of the *parganas* entered in Schedule E annexed to Bengal Act VI of 1873⁴, the ¹[State Government] shall continue to contribute annually the sum noted therein for each *pargana* respectively towards the maintenance of the embankments thereof.

Contribution of public money towards the maintenance of the embankments in the *parganas* entered in Schedule E to be continued.

45. If the embankments maintained in either of the said *parganas* shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such *parganas*, in which the aforesaid sum shall be credited at the commencement of each financial year.

If such embankments are declared to be public, Collector to keep a separate account.

¹See foot-note 3 on page 515, *ante*.

²See foot-note 2 on page 515, *ante*.

³See foot-note 7 on page 516, *ante*.

⁴The Bengal Embankment Act, 1878.

[Ben. Act II

(Part VI.—Cost of Works, Proceedings, etc.—Sections 46—50.)

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such *pargana*.}

Contribu-
tion may
be discon-
tinued if
it be
found
unneces-
sary for
the public
interest to
maintain
the
embank-
ments.

46. If at any time ^{1*} * * * on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in either of the said *parganas*, the ²[State Government] may direct that such contribution shall cease in respect of such *pargana* :

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the ²[State Government] on the report of an inquiry similarly conducted, that the maintenance of any embankment in such *pargana* has again become necessary for the public interest.

Estimates-
and speci-
fication
to be
prepared.

47. Subject to the provisions of Part III of this Act, before the Collector or the Engineer undertakes, under the provisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the ²[State Government] shall direct, shall be prepared by the Engineer.

Prepara-
tion of
further
estimates
and speci-
fications.

48. Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimates of such work which may have been transmitted to the office of the Collector under the next succeeding section the Engineer shall forthwith prepare further estimates, and if necessary, further specifications.

Estimates
and speci-
fications to
be open to
inspection.

49. Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the ²[State Government] may from time to time direct, and may be examined by any person interested in such works and repairs.

Notice of
receipt of
estimates
and
specifica-
tions.

50. A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates

¹The words "after the commencement of this Act" were repealed by sec. and the Third Sch. of the Amending Act, 1908 (I of 1908).

²See foot-note 2 on page 515, *ante*.

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Sections 51, 52.)

chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres ; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

51. The accounts of the actual expenses incurred in executing any works or repairs, or of any portion of the actual expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof.

Preparation of accounts and Engineer's certificate of expenses.

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified or any parts of them, are effected.

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58.

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the *zamindars* of such estates and villages shall be liable to pay the said amount.

Copies of the said account, certificates and statements shall be deposited in the office of the Collector, and may there be examined by any person interested.

Notices and inquiry into objections.

52. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given.

Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres ; or, instead of causing a general notice to be published, the Collector may cause special notice to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned ; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged has not been performed, or that the whole sum charged has not been expended,

(Part VI.—Cost of Works, Proceedings, etc.—Sections 53—55.)

or that the ~~es~~ of charge are higher than those mentioned in estimates, the Collector shall inquire into such objection, and pass orders hereon.

Total sum payable.

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Part II or Part V of this Act, or under sections 26 to 29 of Bengal Act VI of 1873¹, as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next chapter contained.

Interest.

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five *per centum*, or as such rate, not exceeding five *per centum per annum*, as the ²[State Government] may from time to time determine.

2.—Liability for the Costs, and Apportionment thereof.

Parties liable to pay.

54. The total sum aforesaid, save so far as is otherwise provided in this Act, shall be paid to the Collector by the *zamindars* of the estates in which are situated the lands benefited or protected by the repairs or works executed :

Proviso in respect of the *paragana* in Schedule E.

Provided that the sum standing to the credit of a *paragana* in Schedule E to Bengal Act VI of 1873¹ annexed in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such *paragana*, and that the *zamindars* of the estates situated in such *paragana* shall be charged only with the balance of the amount (if any) which may remain payable.

Recovery from under-tenants.

55. Every *zamindar*, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure

¹The Bengal Embankment Act, 1873.

²See foot-note 2 on page 515, *ante*.

of 1882.]

(Part VI.—Cost of works, Proceedings, etc.—Section 56—58.)

held immediatly under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59.

And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

56. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned.

Notice to be given before apportionment.

Such notices shall make it known that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the *zamindars* and tenure-holders the said total sum, with interest and the cost of apportionment.

57. In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at the date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

Names of tenure-holders.

58. At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the *zamindar* thereof with the total amount payable; and if there be two or more estates, he shall apportion the same among the *zamindars* thereof, either—

Apportionment amongst *zamindars*.

(a) rateably in proportion to the respective benefit by such estates from such works or repairs;

(b) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or

[Ben. Act II

(Part VI.—Cost of Works, Proceedings, etc.—Sections 59, 60.)

(c) with the sanction of the ¹[State Government], in proportion to the amount of revenue payable for such estates respectively :

²[*Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the zamindars of all the estates situated in the district of Saran, in proportion to the amount of revenue respectively payable for such estates :*

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on account of any year in respect of the embankments on the left bank of the river Gandak in the district of Muzaffarpur, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments ; that is to say, chargeable to the zamindars of all the estates situated in the following parganas, viz., Rati, Gadasand, Hajipur, Bhatsala, Garjaol, Nae, Saresa and Balagach, in proportion to the amounts of land-revenue payable for such estates respectively, but so that the amount out of any total sum apportioned in respect of each estate in Rati, Gadasand and Hajipur, shall bear such a proportion to the land-revenue payable for such estate as shall be twice as great as the proportion which the amount apportioned in respect of each estate in the remaining parganas shall bear to the land-revenue payable for such estate.]

Apportion-
ment
amongst
tenure-
holders.

59. The Collector shall in like manner ²[*except in respect of the said embankments on the right bank and left bank of the river Gandak,*] charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenure therein rateably in the proportion of benefits so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

Provisions
as to lands
held
without
payment
of rent not
being
estates.

60. All lands held without payment of rent, not being estates, may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included ; and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

¹See foot-note 2 on page 518 ante.

²These words in italics and enclosed within square brackets are inapplicable to West Bengal, but have not been formally repealed therein.

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Sections 61—63.)

61. The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the ¹[Commissioner of the Division] shall direct : Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Amount apportioned payable by instalments.

2* * * *

²61A. Interest shall be charged from the date of apportionment on the amount charged to or apportioned on any estate or tenure, less any instalment of such amount paid from time to time. The interest shall be at the rate of five *per centum* or at such rate, not exceeding five *per centum per annum* as the ⁴[State Government] may from time to time determine.

Interest payable on amount apportioned.

62. If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this part provided.

Apportionment of further expenses,

63. Instead of the procedure prescribed above for charging upon, and recovering from *zamindars*, the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, the ⁵[State Government] may, by an order to be published in the ⁶[*Official Gazette*], direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which ⁷[it] may think fit.

Alternative power of apportioning estimated expenditure for a series of years.

and may by a subsequent order fix the total sum payable during such number of years by the *zamindars* of the estates benefited by such repairs, maintenance and works :

Provided that no order fixing such total sum shall be passed by the ⁵[State Government] until three months after the amount of such estimate shall have been published in the ⁶[*Official Gazette*], and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the ⁵[State Government] for ⁸[its] consideration.

¹These words were substituted for the words "Lieutenant Governor" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²The second paragraph was omitted by sec. 3 of the Bengal Embankment (Amendment) Act, 1931 (Ben. Act I of 1931).

³Section 61A was inserted by sec. 4 *ibid.*

⁴See foot-note 2 on page 518 *ante*.

⁵See foot-note 2 on page 515, *ante*.

⁶See foot-note 7 on page 516, *ante*.

⁷This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸This word was substituted for the word "his", *ibid.*

(Part VI.—Cost of Works, Proceedings, etc.—Sections 64—66.)

Period included in the last section, what to include.

64. The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act :

Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such orders.

Works in respect of which such estimate may be made.

65. The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

- (a) of any protective works which may be specified in such orders ;
- (b) of all the public embankments and water-courses in any district ; or
- (c) of all the public embankments and water-courses within any tract of country specified in the order of the ¹[State Government] and any such tract may contain the whole or portions of any one or more districts ;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of cost of new works.

Whenever the ¹[State Government] shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the *zamindars* to the Collector under the provisions of this Act, in addition to any total sum fixed under section 63 or section 64 as payable by them.

Mode of apportionment.

66. On publication of any order of the ¹[State Government] under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the *zamindars* and ²[except in respect of the embankments on the right and left banks of

¹ See foot-note 2 on page 517, *ante*.

² These words in italics and enclosed within square brackets are inapplicable to West Bengal, but have not been formally repealed.

These words are inapplicable.

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Sections 67—71.)

banks of the river Gandak as provided in section 58] among the tenure-holders who are liable to pay the same, as above provided.

67. The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five per centum, or at such rate, not exceeding five per centum per annum as the ¹[State Government] may from time to time determine from the end of the year in which it is payable.

Payment of sum apportioned.

68. On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

Final order of apportionment.

3.—Recovery thereof.

69. As soon as may be after any final order of apportionment is made, as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the *zamindars* in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the *zamindars*, or superior tenure-holders. Instead of causing a general notice to be published the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned.

Publication of final order of apportionment.

70. If any such sum payable to the Collector, or any instalment thereof, be not pursuant to the said order, paid, the same with interest may be recovered as arrears of a demand under the provisions of ²[the Bengal Public Demands Recovery Act, 1913], or, any similar Act for the time being in force.

Recovery of sums apportioned.

71. When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859³, or under section 70 of Bengal Act VII of 1876⁴ or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859³, and Bengal Act VII of 1876⁴, respectively

Effect of opening separate account under Act XI of 1859 or Ben. Act VIII of 1876.

Ben. Act
III of
1913.

¹ See foot-note 2 on page 515, ante.

² These words and figures were substituted for the words and figure "the Public Demands Recovery Act, 1880" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

³ The Bengal Land Revenue Sales Act, 1859.

⁴ The Land Registration Act, 1876.

[Ben. Act II

(Part VI.—Cost of Works, Proceedings, etc.—Sections 72—74.)

in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is, by this Act, required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act IX of 1880¹ in respect of the amount of cesses payable by him.

Liability of
estate for
sum appor-
tioned.

72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act XI of 1859², and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

Amount
appor-
tioned may
be raised
by leasing
or mort-
gaging
estate.

73. If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the³[Commissioner of the Division], raise the amount necessary to discharge the sum or instalment remaining unpaid—

- (a) by mortgaging the whole or any part of such estate ;
- (b) by letting in farm or managing by himself or another the whole or any part of such estate ;
- (c) partly, by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery
by
samindars
and tenure-
holders.

74. Every *zamindar* or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of *patni* tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation VIII of 1819⁴, as amended by Bengal Act VIII of 1865⁵, or by the provisions of any similar Act for the time being in force :

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

¹The Cess Act, 1880.

²The Bengal Land Revenue Sales Act, 1859.

³These words were substituted for the words "Board of Revenue" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁴The Bengal Patni Taluks Regulation, 1819.

⁵The Bengal Rent Recovery (Under-tenures) Act, 1865.

of 1882.]

(Part VII.—Penalties.—Sections 75, 76.)

Amend-
ment of
section 75
of Ben.
Act II of
1882.

3. In section 75 of the principal Act, for the words "be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.", the words "be liable to imprisonment of either description for any period not exceeding three years, or to a fine not exceeding one thousand rupees or to both." shall be substituted.

Act XLV
of 1860.

not amount to an offence within the provisions of the Penal Code, be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.

by Act.

76. (a) Every person, who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public water-course ;

Penalty for unauthor-
ized inter-
ference
with
embank-
ments or
drainage.

(b) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted any water-

Penalty for unauthor-
ized inter-
ference
with
embank-
ments or

Amend-
ment of
section 76.

4. In section 76 of the principal Act, in clause (c), for the words "to a fine not exceeding five hundred rupees or in default of payment to imprisonment of either description for a period not exceeding six months," the words "to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding three years or to both." shall be substituted.

¹[Exception.—This section shall not render unlawful the repair of a breach or cut in an embankment so as to restore the embankment to the same dimensions as it had immediately before such breach occurred or cut was made ; provided that—

- (a) such cut was not made under the orders of the Collector ;
- (b) such repair is made within one year after such breach occurred or cut was made ; if, however, the repair cannot be completed within this period, the sanction of the Collector shall be obtained to the completion of the work ;

¹This Exception was added by sec. 2 of the Bengal Embankment (Amendment) Act, 1933 (Ben. Act VIII of 1933).

(Part VII.—Penalties.—Sections 77—79.)

(c) such breach or cut forms a gap or, if unrepaired, may form a gap between two portions of an existing embankment which were continuous before the breach occurred or cut was made ;

(d) the part of the embankment in which the breach occurred or cut was made was not erected or added to in contravention of this section or of any other provision of law for the time being in force.]

*Amend-
ment of
section 77.*

5. In section 77 of the principal Act, for the words "be liable to imprisonment of either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees.", the words "be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding one thousand rupees or to both." shall be substituted.

to imprisonment of either description for a term not exceeding ^{now 4000} of 1860, one month, or to a fine not exceeding two hundred rupees.

*Amend-
ment of
section 78.*

6. In section 78 of the principal Act, for the words "shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.", the words "shall be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding one thousand rupees or to both." shall be substituted.

or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment ;

and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment,

shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

*Obstruc-
tions to be
removed
and damage
repaired.*

79. Whenever any person is convicted of an offence under either of the three last preceding sections the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order.

of 1882.] .

(Part VII.—Penalties.—Part VIII.—Miscellaneous.—Sections 80, 81.)

order within

7. In section 79 of the principal Act,—

- (a) in the marginal note, for the words and figures "Act V of 1898.", the figures and word "2 of 1974." shall be substituted,
- (b) for the words and figures "sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.", the words and figures "sections 421, 422 and 425 of the Code of Criminal Procedure, 1973." shall be substituted.

Act V of 1898. 2 of 1974.

Insertion of new section 79A. 8. In Part VII of the principal Act, after section 79, the following section shall be inserted:—

79A. Notwithstanding anything contained in any other law for the time being in force, an offence punishable under this Act shall be cognizable and non-bailable."

served shall be served,—

- (1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or
- (2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or
- (3) by posting a copy of the notice or order at the *mal-cut-cherry* of the estate, village or tenure to which the same relates; or, if no such *mal-cut-cherry* be found, on some conspicuous place on the said estate, village or tenure; or
- (4) if the person on whom the notice or order is to be served is a *zamindar*, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such *zamindar*.

notices.

"These words and figures were substituted for the words and figures "section 337 of the Code of Criminal Procedure" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

(Part VIII.—Miscellaneous.—Sections 82—87.)

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

Powers of Collector and Commissioner on inquiry and appeal.

82. In any inquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure, ¹[1908,] of summoning and examining witnesses and compelling the production of documents.

Act V of 1908.

No proceedings to be impeached for mistake or want of form.

83. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, provided the directions of this Act be in substance and effect complied with ; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from orders.

84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52 or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue ; but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

General control of Commissioner and Government.

85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the ²[State Government].

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

Orders to be final.

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Disposal of lands no longer required for embankments.

87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored

¹This figure was inserted by sec. 2 and the First Sub. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 3 on page 515, ante.

of 1882.]

(Part VIII.—Miscellaneous.—Sections 88—90.)

by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same.

All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works, affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the *zamindars* and tenure-holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable.

88. A Collector may delegate any of his powers under this Act to a Deputy Collector; but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Collector may delegate any of his powers to a Deputy Collector.

Every such delegation of power shall be reported to the Commissioner of the Division.

89. All offences created by this Act shall be inquired into and tried by a Magistrate of the first or second class.

Jurisdiction.

90. The ¹[State Government] may from time to time make rules, consistent with the provisions of this Act, to regulate the following matters :—

Power to make, alter and cancel rules.

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;
- (b) the business of embankment Committees ;
- (c) the cases in which, the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;
- (d) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act, shall be done ;

¹ See foot-note 2 on page 515, *ante*.

[Ben. Act II

(Part VIII.—Miscellaneous.—Part IX.—Special Provisions for the State of Orissa.—Sections 91, 92.)

(e) the amount of any charge made under this Act ; and

(f) generally to carry out the provisions of this Act.

The ¹[State Government] may from time to time alter or cancel any rules so made.

Publica-
tion of
rules.

Such rules, alterations and cancelment shall be published in the ²[Official Gazette], and shall thereupon have the force of law :

Provided that no rules shall be made by the ¹[State Government] under the powers conferred on ³[it] by this section, until a draft of the same shall have been published in the ²[Official Gazette] for one month, after which time the ¹[State Government] may pass such rules as originally published or with such alterations, additions and omissions as ⁴[it] may think fit.

Saving of
operation
of certain
Acts.

91. Nothing in this Act shall apply to any embankment, land or water-course which is under the operation of any of the following Acts :—

* * the Bengal Irrigation Act, 1876,

⁵[the Canals Act, 1864.]

Ben. Act
III of
1876.

Ben. Act V
of 1834.

PART IX.

SPECIAL PROVISIONS FOR THE STATE⁷ OF ORISSA.

[Powers
conferred
on Superin-
tendent of
Embank-
ments in
Orissa].

⁸92. The powers conferred on the Collector by section 25 may, in the State⁷ of Orissa, be exercised by the Superintendent of Embankments with the consent of the Collector previously obtained, and the references in the said section to other parts of this Act shall be deemed to be references to the corresponding portions respectively of Act XXXII of 1855⁹ (An Act relating to embankments).

¹See foot-note 2 on page 515, ante.

²See foot-note 7 on page 516, ante.

³This word was substituted for the word "him" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1987.

⁴This word was substituted for the word "he", *ibid*.

⁵The words and figures "the Bengal Drainage Act, 1830" were repealed by sec. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶These words and figures were substituted for the words, figures and brackets "Bengal Act V of 1864 (an Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal)" by sec. 2 and the First Sch., *ibid*.

⁷See foot-note 5 on page 513, ante.

⁸Sections 92 to 94 are inapplicable to West Bengal, but have not been formally repealed therein.

⁹The Bengal Embankment Act, 1855.

of 1882.]

[Part IX.—Special Provisions for the State of Orissa.—
Secs. 93, 94 and Schedule I.]

The consequences mentioned in section 26 shall attach to everything done by the Superintendent of embankments under the provisions of this section.

[93. In cases in which the Engineer in charge of any embankment may be of opinion that delay for the purpose of obtaining the orders of the Superintendent of embankments and the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the said Superintendent with the consent of the Collector in pursuance of the last preceding section. The Engineer shall forthwith report to the said Superintendent any action taken by him under this section, and shall be guided by any instructions which he may receive from him in respect thereof.]

[Powers to Engineer to act in urgent cases.]

94. [Sections 4, 5, 6, 34 and 76 shall extend to the ¹[State] of Orissa, the words "Superintendent of embankments" being substituted for the word "Collector" in clauses (a) and (b) of section 76.]

[Sections made applicable to Orissa.]

SCHEDULE I.

(Referred to in section 2.)

(PORTIONS OF BENGAL ACT VI OF 1873 WHICH ARE NOT
REPEALED.)

12. Whenever any land or earth from any land the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of ²[the last preceding section], or for the purposes of ³[section 18] in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in ⁴[section 25], would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule B annexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

Power to take possession of land.

13. The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the persons interested.

Compensation for standing crops and trees.

¹See foot-note 5 on page 513, *ante*.

²This reference is now to be read as a reference to section 25 of the Bengal Embankment Act, 1882 (Ben. Act II of 1882),—see sec. 2 and Sch. II to this Act.

³This reference is now to be read as a reference to sec. 30 of Ben. Act II of 1882—see Sch. II to this Act.

⁴This reference is now to be read as a reference to sec. 37 of Ben. Act II of 1882—see Sch. II to this Act.

(Schedule 1.)

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29.

21. (Proviso).—Provided always that in case the Collector be of opinion that the delay required by ¹[such proceedings] is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts, or buildings to be removed and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

When
land
taken,
proclama-
tion to be
published.

26. Whenever any land shall have been taken or used under the provisions of ²[Part III], the Collector shall cause a proclamation to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him. Thereupon the land shall vest absolutely in the Government free from all incumbrances, subject however, to the claims for compensation to be ascertained in manner as in ³[this part] is provided.

Contents
of pro-
clamation.

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claim to compensation for such interest.

Further
notice
to be
served on
certain
parties.

28. The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue districts in which the land is situate.

Proceed-
ings after
notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, ⁴[1894], or other law for the time being in force for the acquisition of land for public purposes.¹

I of 1894.

Schedules B, C, D and E.

¹This reference is now to be read as a reference to sec. 19 of the Bengal Embankment Act, 1882 (Ben. Act II of 1882),—*see* sec. 2 and Sch. II to this Act.

²This reference is now to be read as a reference to Part III of Ben. Act II of 1882—*see* Sch. II to this Act.

³This reference is now to be read as a reference to Part V of Ben. Act III of 1882—*see* Sch. II to this Act.

⁴*See* foot-note 1 on page 521. *ante*.

of 1882.]

(Schedules 11, III.)

SCHEDULE II.

(Referred to in section 2.)

Section of Bengal Act VI of 1873 in which the reference is made.	The reference as it stands.	To what portion of the present Act the reference is to be read to apply.
Section 12	To "the last preceding section."	Section 25
Section 12	To section 18	Section 30.
Section 12	To section 25	Section 37.
Section 21	To "such proceedings."	Section 19.
Section 26	To Part III	Part III.
Section 26	To "this Part"	Part V.

SCHEDULE III.

(Referred to in section 8.)

Notice is hereby given, as required by section 8, Bengal Act II of 1882, to all persons interested, that it appears to the Collector that the following work should be done ; that is to say [here state the nature of the work and the purpose for which it is to be undertaken]. **For the execution of this work the undermentioned land will be required to be taken up :—*

1	2	3
<i>Pargana</i> in which land is situated.	Village in which land is situated.	Area of land.

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person, who is allowed to take copies thereof.

**The words in italics and the tabular form to be omitted if no land is to be acquired.*

[Ben. Act II of 1882.]

(Schedule III.)

*The total probable cost of such work will be the sum of Rs. and the rate per acre of the area benefited or protected by the said work is estimated at Rs.

The following estates and villages will probably be affected by the work proposed (*here set out a list of the estates and villages*).

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the day of

The

day of

A. B.,

Collector of

*These words may be omitted, unless it is proposed to recover the cost of the work from the *samindars* and tenure-holders.

Bengal Act III of 1883
(THE BENGAL TRAMWAYS ACT, 1883.)

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- 30. Penalty for obstructing promoters in the exercise of their power.
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Bengal Act III of 1883

(THE BENGAL TRAMWAYS ACT, 1883.)¹

REPEALED IN PART	(Act I of 1903. (West Ben. Act XXV of 1951.
AMENDED	{ Ben. Act I of 1904. { Ben. Act I of 1939.
ADAPTED	((a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

(2nd May, 1883.)

An Act to authorize the making and to regulate the working of Tramways in Bengal.

Whereas it is expedient to facilitate the construction and regulate the working of tramways within the territories subject to the Government of the *Lieutenant-Governor of Bengal*² ;

Preamble.

It is enacted as follows :—

1. This Act may be cited for all purposes as the Bengal Tramways Act, 1883.

Short title.

(Commencement.)—Rep. by sec. 4 and the Third Schedule of the Amending Act, 1903 (I of 1903.)

2. For the purposes of this Act the terms hereinafter mentioned shall, unless there be something repugnant in the subject or context, have the meanings hereinafter assigned to them :—

Interpretation.

the term “local authority” shall mean—

(1) bodies of persons for the time being appointed or elected to conduct the affairs of any municipality under

“Local authority”.

¹Legislative Papers.—For Statement of Objects and Reasons, see the “Calcutta Gazette” of 1883, Pt. IV, page 46 ; for Report of Select Committee, see *ibid.*, page 61 ; and for Proceedings in Council, see *ibid.*, Supplement, pages 42, 47, 229 and 528.

Local Extent.—This Act was passed for the whole of the former Province of Bengal—see the Preamble.

The provisions of the Bengal Tramways Act, 1883 (Ben. Act III of 1883) relating to the purchase of the undertaking or any part thereof which is purchasable by anybody or persons are repealed in so far as such provisions are inconsistent with the provisions of the Calcutta Tramways Act, 1951 (West Bengal Act XXV of 1951) relating to the transfer of the undertaking to Government (*Vide* West Ben. Act XXV of 1951, section 6).

²This includes the present State of West Bengal and other territories.

(Part I.—Orders by the appropriate Government authorizing the construction of Tramways.—Sec. 3.)

¹[the Bengal Municipal Act, 1932,] or other law for the time being in force for the purposes of regulating municipalities in ²[West Bengal] ;

- (2) any Board, Committee, Department or other body or person in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road ;

"Area." the term "area" in relation to a local authority shall mean the area within the jurisdiction of such local authority ;

"Municipality." the term "municipality" shall mean any place in which ¹[the Bengal Municipal Act, 1932,] or any other law for the time being in respect of ²[West Bengal] municipalities is in force ;

"Road." the term "road" shall mean any carriage way, being a public thoroughfare, and the carriage way of any bridge forming part or leading to the same ;

"Tramway." the term "tramway" shall mean a tramway constructed under this Act.

"Appropriate Government." ³[the term "appropriate Government" shall mean, in relation to a tramway which is, or will be when completed, a Railway as defined in the Constitution, the Central Government : and in relation to any other tramway, the State Government.]

PART I.

ORDERS BY THE APPROPRIATE GOVERNMENT AUTHORIZING THE CONSTRUCTION OF TRAMWAYS.

By whom orders authorizing the construction of tramways may be obtained.

3. An order made by the ⁴[appropriate Government] authorizing the construction of any tramways in any municipality or area may be obtained by—

1st, the local authority of such municipality or area ;

2nd, any person, persons, corporation or company with the consent of such local authority.

And any such local authority, person, persons, corporation or company shall be deemed to be "promoters" of a tramway, and are in this Act referred to as "the promoters."

When applications for authority to construct tramways may be made.

Where the local authority consists of a body of persons, Board or Committee, no application shall be made to the ⁴[appropriate Government] for the purpose of authorizing the construction of

¹These words and figure were substituted for the words and figures "Bengal Act V of 1876" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Substituted for the word "Bengal" by para. 3 (2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³Substituted for the former definition inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, by para. 8 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

⁴These words were substituted for the words "Local Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1883.]

(Part I.—Orders by the appropriate Government authorizing the construction of Tramways.—Secs. 4, 5.)

tramways in a municipality or area until a resolution approving of the intention to make such application, shall be passed at a special meeting of the members constituting the local authority in such municipality or area.

Such special meeting shall not be held unless a month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given, and such notice shall require that all objections to the proposed tramways shall be submitted for the consideration of the local authority before the date fixed for the special meeting.

Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution.

4. At the time of making an application for such order the promoters shall also forward to the ¹[appropriate Government]—

Documents to be forwarded with application.

1st, a memorial signed by the promoters descriptive of the undertaking ;

2nd, a copy of the proceedings and resolution of the special meeting held under the provisions of section 3 ;

3rd, a copy of the provisional agreement made between the promoters and local authority, where the promoters are not themselves the local authority ;

4th, an estimate of the proposed works, signed by the persons making the same ;

5th, all necessary maps, plans, sections and drawings of the proposed work.

5. The ¹[appropriate Government] shall consider the application, and may, if it think fit, direct an inquiry as to the propriety of proceeding upon such application, and it shall consider any objection thereto that may be filed on or before such day as it may from time to time appoint.

Appropriate Government to determine on application and objection.

Where it appears to the ¹[appropriate Government] expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the ¹[appropriate Government] may settle and make an order accordingly, and such order shall be published in the ²[Official Gazette].

Appropriate Government may make and publish order.

¹These words were substituted for the words 'Local Government' by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were substituted for the words "Calcutta Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act III]

(Part I.—Orders by the appropriate Government authorizing the construction of Tramways.—Secs. 6—9.)

Form and contents of order.

Every such order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions, fix such maximum rates of fare and prescribe such penalties for default as (subject to the provisions of this Act) the ¹[appropriate Government], according to the nature of the application and the facts and circumstances of each case, thinks fit.

Where the promoters are not the local authority, the order shall set forth the agreement made between the promoters and the local authority, and one of the provisions of such agreement shall settle the manner in which the value of the tramway shall be calculated in the event of its purchase by the local authority, under sections 39, 40 or 41.

Power to revoke, amend or vary order.

6. The ¹[appropriate Government], on the application of any promoters empowered by an order to construct a tramway, may from time to time revoke, amend or vary such order by a further order :

Provided that, whenever the promoters are not the local authority, the ¹[appropriate Government] shall, before passing such order, call upon the local authority to state any objection it may have to such application.

Power to authorize joint work.

7. Subject to, and in accordance with, the provisions of this Act, the ¹[appropriate Government] may, on a joint application, or on two or more separate applications, settle and make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts of a tramway, and jointly or separately to own the whole or parts thereof ; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid ; and the form of the order may be adapted according to the circumstances of the case.

Appropriate Government may in certain

cases with consent of local authority.

8. Where it is proposed to lay down a tramway in two or more areas, and any local authority having jurisdiction in any of such areas does not consent thereto, the ¹[appropriate Government] may nevertheless make an order authorizing the construction of such tramway, if it is satisfied after inquiry that two-thirds of the length of such tramway is proposed to be laid in an area or areas the local authority of which area or areas does consent thereto.

Promoters' powers to cease at expiration of prescribed time.

9. If the promoters empowered by any order under this Act to make a tramway do not, within the period prescribed in such order, complete the tramway and open it for public traffic ; or,

if the works are not substantially commenced within the latest date prescribed in such order for their commencement ; or,

¹See foot-note 1 on page 551, ante.

of 1883.]

(Part I.—Orders by the appropriate Government authorizing the construction of Tramways.—Part II.—Construction of Tramways.—Secs. 10—14.)

if the works, having been commenced, are suspended without a reason sufficient, in the opinion of the ¹[appropriate Government] to warrant such suspension ;

the powers given by the order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised to the extent and in the manner specified in such order.

A notice inserted by the ¹[appropriate Government] in the ²[Official Gazette] to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement or suspension.

10. When the local authority of any area are the promoters of any tramway, the expenses incurred by them in constructing and working such tramway under the provisions of this Act, including the expenses preparatory thereto, may be paid out of the funds under the control of such local authority.

Payment of expenses when local authority are promoters.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use of roads as may be agreed upon.

Rent for use of road when local authority are not promoters.

12. Any moneys received by and local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control of such local authority may be applied.

Application of rent or tolls.

13. The ¹[appropriate Government] may from time to time make, and when made may revise, modify, annul, add to or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution.

Power to make rules.

PART II.

CONSTRUCTION OF TRAMWAYS.

14. Every tramway shall be constructed and maintained on such gauge and in such manner as may be specified in the order of the ¹[appropriate Government] empowering the construction of such tramway, and, before the work of construction is begun,

Form in which tramways are to be constructed and maintained.

¹ See foot-note 1 on page 551, ante.

² See foot-note 2 on page 551, ante.

(Part II.—Construction of Tramways.—Sec. 15.)

the maps, drawings and specification showing the proposed construction of such tramway shall be submitted to the local authority and be approved by it, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by such local authority.

Power to
break up
streets.

15. The promoters may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the roads upon which the construction and maintenance of such tramway has been authorized by the order of the ¹[appropriate Government] in that behalf, and therein lay sleepers and rails, and repair, renew, alter or remove the same; and may, for the purposes aforesaid, do in and on such roads all other acts which shall from time to time be necessary for constructing and maintaining their tramways:

Provided that, when the powers granted under this section shall be exercised by the promoters who are not the local authority, such powers shall be exercised subject to the following regulations:—

- 1st.—They shall give to the local authority notice in writing of their intention to open or break up any such road, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least seven days before the commencement of the work.
- 2nd.—They shall not open or break up or alter the level of any such road, except under the superintendence and to the reasonable satisfaction of the local authority, for which superintendence the promoters shall pay all reasonable expenses, unless the local authority neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.
- 3rd.—They shall not, without the consent of the local authority in writing, open or break up at any one time a greater length than a quarter of a mile in any one length, and shall leave an interval of at least a quarter of a mile between any two such places at which they may open or break up such road.
- 4th.—They shall, with all convenient speed, and in all cases within two calendar months at the most, unless the local authority otherwise consent in writing, complete the work for which the said road shall be broken up, and fill in the ground, and make good the surface, and, to the reasonable satisfaction of the local authority, restore the road to as good a condition as that in which it was before it was opened or broken up and clear away all surplus materials or rubbish occasioned thereby.

¹See foot-note 1 on page 551, *ante*.

of 1883.]

(Part II.—Construction of Tramways.—Secs. 16—19.)

5th.—They shall in the meantime, when such road is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes, sewers, drains, culverts, bridges and fences, whether belonging to the local authority or to private individuals, by the disturbance thereof, and shall not cause any interruption in the supply of gas in or through any main or pipe, or the flow of water through any pipe, drain, culvert, bridge or other waterway ; if they fail to make such damage good, or to remove such interruption within reasonable time, the local authority may, without prejudice to the penalties payable under section 29, cause the same to be made good at the promoters' expense.

16. The promoters shall at their own expense at all times maintain and keep in good condition and repair, in such manner as the local authority shall direct the rails of which any of their tramways shall for the time being consist, and so much of any road as lies between the rails of any tramways ; and, in the case of double lines or turn-outs or sidings the portion of the road between the tramways and in every case so much of road as extends eighteen inches beyond the rails of and on each side of any such tramways ; and in the course of carrying out repairs it shall not be necessary to give notice thereof to the local authority.

Promoters to keep the tramway roads in proper repair.

17. In exercising the powers given to them by the last two preceding sections the promoters shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the roads or to the ordinary means of approach to houses situated on either side of the roads, and so as to admit of as free and unrestricted entry at all times into the sewers, drains, culverts and bridges for the time being in use as is possible under the circumstances and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the local authority.

Promoters not to obstruct ordinary traffic.

18. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheel or wheels suitable to run on rails. But the right of the public shall not include the use of any new roadway, embankment or earthwork constructed or acquired for the special and exclusive use of the tramway.

Reservation of right of public to use roads.

19. Notwithstanding anything in this Act contained the promoters shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Right of user only.

[Ben. Act III]

(Part III.—Working of Tramways.—Secs. 20—24.)

PART III.

WORKING OF TRAMWAYS.

No tramway to be opened without certificate from

20. No tramway shall be opened for public traffic until the same has been inspected and ¹[certified to be fit for such traffic by an engineer or other officer appointed—

²(a) if the tramway is a railway, by the Central Government ;

(b) if the tramway is not a railway, by the State ³Government.]

Local authority may lease or take tolls.

21. When a tramway has been completed under the provisions of this Act and certified to be fit to be opened for public traffic under the last preceding section, the local authority or other promoters may, subject to the provisions of this Act, place and run carriages on such tramway, and demand and take tolls and charges in respect of the use of such carriages ; or may, by lease to be approved of by the ⁴[appropriate Government], demise to any person, persons, corporation or company the right of user by such person, persons, corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorized ; or such authority may leave such tramway open to the public, and may in respect of such user demand and take the tolls and charges authorized.

Carriages how to be worked.

22. The cars and carriages of the promoters on the lines of the tramway shall be worked with such power, animal, mechanical or otherwise, as may be specified in the order issued by the ⁴[appropriate Government] under section 5.

Promoters may use tramway

with flange wheels.

23. The promoters may use on their tramways carriages with flange wheels or wheels suitable for running on the prescribed form of rail, and, subject to the provisions of this Act, they shall have the exclusive use of their tramways for carriages with flange wheels, or other wheels, suitable for the said form of rail.

Promoters may fix and demand fares.

24. The promoters shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways :

Provided that the rate of fare for each person or parcel shall not exceed the maximum rates authorized in the order of the ⁴[appropriate Government] issued under section 5.

¹These words and clauses were substituted for the words "certified by an engineer or other officer, appointed in that behalf by the Local Government, to be fit for such traffic" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the former clause (a) by para. 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³Substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴See foot-note 1 on page 551, *ante*.

of 1883.]

(Part III.—Working of Tramways.—Secs. 25—28.)

25. A printed list, in English and the vernacular of the district, of all the fares and charges fixed under the authority of the last preceding section, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the promoters upon any of their tramways.

Printed list of fares, etc., to be placed in carriages.

The fares and charges fixed as aforesaid shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the promoters may, by notice to be annexed to the list of fares, from time to time appoint.

Fares how to be paid.

26. The members constituting the local authority in a municipality or area in special general meeting may, subject to confirmation thereof by the ¹[State Government] from time to time make such by-laws as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act or any rules framed under section 13. ²[In relation to a tramway which is a railway, the confirmation required by this section shall, in lieu of being a confirmation of the State³ Government, be that ⁴* * * of the Central Government.]

By-laws by local authority,

27. The promoters may, subject to confirmation as aforesaid, from time to time make such by-laws—

The promoters may make certain by-laws.

for preventing disturbances, or the entry of persons suffering from infectious diseases, or the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to them; and

for regulating the travelling in or upon any carriage belonging to them:

publication of by-laws.

Provided that such by-laws are not inconsistent with this Act or with any rules or by-laws framed under sections 13 and 26.

28. All rules and by-laws made under sections 13, 26 and 27, ⁵[shall, when duly confirmed] be published in the ⁶[*Official Gazette*], and such rules and by-laws when so published shall, until repealed or altered, be of the same effect as if they had been inserted in this Act:

¹The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were inserted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³See foot-note 3 on page 556, *ante*.

⁴The words "of the Federal Railway Authority, or, if the Central Government so direct" were omitted by para. 8(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵These words were substituted for the words "and confirmed, by the Local Government, shall, when confirmed," by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶See foot-note 2 on page 551, *ante*.

(Part IV.—Offences.—Secs. 29—32.)

Provided that no rules and by-laws shall ¹[be so confirmed] until they shall have been published for at least one month previously in the ²[Official Gazette] and in one or more of the local newspapers (if any exist) which circulate in the district to which such rules and by-laws relate.

PART IV.

OFFENCES.

Penalty for failure of promoters to comply with provisions of this Act.

29. If the promoters, not being the local authority, fail in any respect to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing promoters in the exercise of their power.

30. If any person wilfully obstructs any person acting under the authority of the promoters in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the lines of the tramway, he shall, for every offence, be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

31. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—

interferes with, removes or alters any part of a tramway of the promoters, or of the works connected therewith ;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways ;

or knowingly aids or assists in the doing of such thing,

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare.

32. If any person travelling or having travelled in any carriage of the promoters avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof,

¹These words were substituted for the words "be confirmed by the Local Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1987.

²See foot-note 2 on page 551, ante.

of 1883.]

(Part IV.—Offences.—Part V.—Miscellaneous.—Secs. 33—37.)

or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence be liable to a penalty not exceeding ten rupees.

33. It shall be lawful for any servant of the promoters to arrest and take to the nearest police-station any person who shall be discovered in committing or attempting to commit any such offence as in the last preceding section mentioned, and who shall refuse to give his name and residence, and is unknown to such servant.

Servant of promoters may arrest persons avoiding payment of fare.

34. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the promoters to refuse to accept or carry any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Carriage of dangerous or offensive goods.

35. Any person offending against any by-law made under the provisions of this Act shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such by-laws as a penalty for such offence.

Penalty for breach of by-laws.

PART V.

MISCELLANEOUS.

36. The promoters shall be answerable for all accidents, damages and injuries happening through their act or defaults or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and in all cases where the promoters are not the local authority they shall save harmless the local authorities and their respective officers and servants from all damages and costs in respect of such accidents, damages, and injuries.

Promoters to be responsible for all damages.

37. Nothing in this Act shall limit the powers of the local authority or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such local authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

Power for the local authority or police to regulate traffic on roads.

The local authority shall not be liable to pay to the promoters any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

(Part V.--Miscellaneous.—Secs. 38, 39.)

Rerervation of power over roads.

- 38. Nothing in this Act shall be construed to prevent the local authority or any corporate body or persons, in the exercise of the powers conferred upon them under any law for the time being in force, from opening, breaking up, widening, altering, diverting or improving any of the roads, bridges, drains or culverts traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same :

Provided—

- (1) that they shall cause as little detriment or inconvenience to the promoters as circumstances admit ;
- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the promoters ;
- (3) that before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work ;
- (4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement, proportioned to the length of road over which and time during which running is stopped, shall be made from the rent (if any) reserved and payable by the promoters ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the promoters at the expense of the local authority.

Discontinuance of Tramways.

Tramways to be removed in certain

39. If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the ¹[appropriate Government], the ¹[appropriate Government], if it think fit, may by order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

¹ See foot-note 1 on page 551, *ante*.

of 1883.]

(Part V.—Miscellaneous.—Sec. 40).

Where such order has been made the engineer or other officer appointed on that behalf by the ¹[appropriate Government] may, at any time after the expiration of two months from the date of such order, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to such engineer or officer the cost of such removal and of the making good of the road by such engineer or officer.

Such cost to be certified by such engineer or officer, whose certificate shall be final and conclusive.

And, if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, such engineer or officer may without any previous notice to the promoters (but without prejudice to any other remedy which he may have for the recovery of the amount) sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as such engineer or officer may think fit; and may out of the proceeds of such sale make and re-imburse himself the amount of cost certified as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the said engineer or officer to the promoters.

Inability of Promoters.

40. If at any time after the opening of any tramway it appears to the local authority, or to the Magistrate of the district in which such tramway is situate, that the promoters of such tramway are insolvents, or that they are unable to maintain such tramway, or work the same with advantage to the public,

Proceed-
ings in
case of
inability of
promoters.

the ¹[appropriate Government] upon a representation to that effect made by such Magistrate or local authority, may direct an inquiry by a referee into the truth of the representation,

and if the referee shall find that the promoters are such insolvents, or that they are unable to maintain such tramway or work the same with advantage to the public, the ¹[appropriate Government] may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end,

and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided; and thereupon the engineer or other officer appointed on that behalf by the ¹[appropriate Government] may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect, as in cases of removal under the last preceding section.

¹See foot-note 1 on page 551, *ante*.

[Ben. Act III of 1883.]

(Part V.—Miscellaneous.—Sec. 41.)

Purchase of Tramways.

Local
authority
to have
right of
purchasing
tramway
after
twenty-
one years.

41. The local authority shall have the right of purchasing the tramway, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the date of the order of the ¹[appropriate Government] authorising the construction of such tramway, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given ; and the value to be placed upon the tramway shall be calculated in a manner to be settled in the agreement entered into between the promoters and the said local authority and set forth in the order of the ¹[appropriate Government] :

Provided that the promoters and the local authority may, with the consent of the ¹[appropriate Government], provide in the said agreement for the sale and purchase of the tramway on the expiration of any shorter ²[or longer] periods than those hereinbefore specified.

¹See foot-note 1 on page 551, *ante*.

²These words were inserted by sec. 2 of the Bengal Tramways (Amendment) Act, 1904 (Ben. Act I of 1904).

Bengal Act V of 1883

[THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883.]

Contents.

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11. *Masdoor* entitled to payment according to rates fixed, subject to special agreements for lower rates.
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19. Conviction to be endorsed on *masdoor's* license. Penalty for failing to produce license.
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21. Penalty for refusing to pay legal fare.
22. Jurisdiction.
23. (Omitted.)

Bengal Act V of 1883

[The Darjeeling and Kurseong Municipal (Porters) Act, 1883.]¹

SHORT TITLE GIVEN

.. Act I of 1903.

AMENDED

.. { Ben. Act I of 1939.
West Ben. Act XXVI of 1954.

ADAPTED

(a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.

(b) The Adaptation of Laws
Order, 1950.

(16th May, 1883.)

An Act for the Registration and Control of Porters and Dandewallas in the Darjeeling and Kurseong Municipalities.

Preamble.

WHEREAS it is expedient to provide for the registration and control of porters and *dandeewallas* in the Darjeeling and Kurseong Municipalities ;

It is enacted as follows :

1. In this Act the term "mazdoors" shall be limited to porters, and to *dandeewallas* and other persons employed in carrying, drawing or propelling any vehicle.

Interpre-
tation.

**Ben. Act
III of
1884.**

The term "Commissioners" means the Commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884³, or other Act for the time being in force for the regulation of municipalities.

2. This Act shall come into force in the Darjeeling and Kurseong municipalities respectively when extended thereto by an order of the ⁴[State Government] published in the ⁵[Official Gazette].

Commence-
ment.

Such order shall specify the date on which this Act shall commence in such municipality and shall operate to extend the provisions of this Act to such municipality according to its tenor.

The "[State Government] may, at any time, cancel or modify an order made under this section.

SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

"LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the "*Calcutta Gazette*" of 1883, Part IV, page 53 ; for Report of Select Committee, see *ibid*, page 68, and for Proceedings in Council, see *ibid*, 1882, Supplement, page 1491 ; *ibid*, Supplement, pages 100 and 512.

LOCAL EXTENT.—This Act extends only to the Darjeeling and Kurseong Municipalities (see the title and preamble), and comes into force therein only on publication of an order in the *Calcutta Gazette* (see sec. 2).

²Substituted for the word "*coolies*" by sec. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1954) West Ben. Act XXVI of 1954).

*Bengal Act III of 1884 has been repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

"The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

*These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Sections 3—8.)

Publication
of order.

3. The Commissioners shall, within fifteen days of such publication, cause a copy of the order to be deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other places as the Commissioners may direct ;

and a public proclamation of such order shall be made throughout such municipality by beat of drum.

Appointment
of
registering
officer.

4. The Commissioners at a meeting shall, for the purposes of this Act, appoint a registering-officer.

Licensing
and
registration
of *mazdoors*.

5. Every ¹[*mazdoor*] personally working for gain within the limits of such municipality shall take out a ²license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a ²register in which he shall enter the name and residence of every such ¹[*mazdoor*], and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas :

Provided always that the provisions of this section shall not apply to any ¹[*mazdoor*] who is hired beyond the limits of the municipality for a period of time not exceeding twenty-four hours, but who performs a portion of the work imposed by such hiring within such limits.

Period of
license.

6. The year of registration shall commence on the first day of January of each year and every ²license granted on any date within that year shall, subject to the provisions of sections 12 and 20, remain in force to the thirty-first day of December next following and no longer.

Details of
license.

7. Every ²license granted by the registering-officer shall specify the number of the ²license, and the name and place of abode and age of the ¹[*mazdoor*] to whom such ²license is granted, and shall further state whether such ¹[*mazdoor*] is licensed to work as—

(a) a monthly or other servant for a fixed period of time exceeding twenty-four hours ; or

(b) a ¹[*mazdoor*] empowered to work by the job, or for any period of time not exceeding twenty-four hours.

Every ²license shall bear date on the day on which the same shall be granted.

Licensed
mazdoor to
wear
badge.

8. The registering-officer, shall, at the time of granting the ²license to any ¹[*mazdoor*] empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal ²badge, upon which shall be marked or engraved a number corresponding with the number of such ²license.

Every ¹[*mazdoor*] to whom such ²badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such ¹[*mazdoor*], or while attending before any Magistrate, carry such ²badge exposed to view.

¹Substituted for the word "coolie" by sec. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1964 (West Ben. Act XXVI of 1964).

²References to the expression "coolie" and the expression "coolies" in any register kept, license granted or badge delivered under the Act, shall be construed as references to the expression "*mazdoor*" and the expression "*mazdoors*", respectively. vide sec. 5, *ibid*.

The Darjeeling and Kurseong Municipal (Porters) Act, 1883. 567
of 1883.]

(Sections 9—12.)

9. Whenever any ¹[mazdoor] empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such ²badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

Penalty for omitting to wear badge.

10. The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order specifying the rates of hire in respect of all ³[mazdoors] empowered to work by the job, or for any period not exceeding twenty-four hours.

Rates of hire to be fixed and published.

Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied :

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners :

Provided further that no such order shall take effect until it has been confirmed by the ⁴[State Government] and published in the ⁵[Official Gazette].

A table of the rates of hire, legibly written or printed in English, Lepcha, Bhutia, Nagri, Urdu and Bengali, shall be affixed in some conspicuous place within the limits of the municipality ; and a copy of the same or such portion thereof as may be deemed sufficient, shall be given to every ¹[mazdoor] at the time of registration.

11. Every such ¹[mazdoor] shall be entitled to receive payment for his hiring in accordance with the rates specified in the order mentioned in the last preceding section :

mazdoor entitled to payment according to rates fixed, subject to special agreements for lower rates.

Provided that nothing in this Act contained shall prevent any such ¹[mazdoor] from being bound by any contract into which he may enter to receive payment at a rate lower than that fixed by such order.

12. Any ¹[mazdoor] engaged as a monthly servant, or for some other fixed period of time exceeding twenty-four hours, who shall be proved to the satisfaction of the Chairman of the Commissioners,—

Registration of *mazdoors* when engaged as monthly servants.

to have deserted from such employment without reasonable cause during the period of his engagement ;

or to have been guilty of gross misconduct during such period of time ;

or to have wrongfully prevented or endeavoured to prevent any other ¹[mazdoor] from accepting employment,

¹ See foot-note 1 on page 566, *ante*.

² See foot-note 2 on page 566, *ante*.

³ Substituted for the word "mazdoors" by sec. 2 of the Darjeeling and Kurseong Municipal (Porters) (Amendment) Act, 1954 (West Ben. Act XXVI of 1954).

⁴ See foot-note 4 on page 565, *ante*.

⁵ See foot-note 5 on page 565, *ante*.

(Sections 13—16.)

shall be liable to have his ^alicense withdrawn or suspended for such period as the Chairman may direct.

Penalty
for certain
offences
committed
by
registered
mazdoors.

13. Every ¹[mazdoor] empowered to work by the job, or for any period not exceeding twenty-four hours, who shall, without reasonable excuse,

refuse to accept hire at the rate fixed for such hiring ;
or desert from his hiring before being discharged therefrom ;
or demand more than the proper rate fixed for such hiring ;
or be drunk or make use of insulting or abusive language during the period of, or while waiting for, such hiring ;
or wrongfully prevent, or endeavour to prevent, any other ¹[mazdoor] from being hired ;

or fail to produce his table of rates when required to do so, shall be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Penalty for
being
un-licensed
or lending
license to
another.

14. Any ¹[mazdoor] who shall work as such without being duly registered and licensed, and any ¹[mazdoor] who, having a ^alicense in force, shall transfer or lend the same, or allow the same to be used by any other person, shall be liable upon conviction in respect of any one of such offences, to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Mazdoor
entitled
to have
new badge
on loss or
obliteration
of former
one.

15. Whenever the writing on any ^abadge shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any ^abadge shall be proved, to the satisfaction of the registering-officer to have been lost or mislaid, the ¹[mazdoor] to whom the ^alicense relating to any such ^abadge shall have been granted shall deliver such ^abadge (if he shall have the same in his possession), and shall produce such ^alicense to the registering-officer ; and such ¹[mazdoor] shall then be entitled to have a new ^abadge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

Penalty
for
neglecting
to deliver
up badge,
lending
badge, etc.

16. Upon the expiration or other determination of any ^alicense granted to a ¹[mazdoor] under this Act, such ¹[mazdoor] shall deliver such ^alicense, and in the case of a ¹[mazdoor] empowered to work by the job, or for any period of time not exceeding twenty-four hours, the ^abadge relating thereto, to the said registering-officer ;

and every such ¹[mazdoor] who, after such expiration or determination as aforesaid, shall wilfully neglect for one week to deliver the same to the said officer, and also every ¹[mazdoor] who shall use, or wear, or detain any ^abadge which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every ¹[mazdoor] to whom any ^abadge shall have been delivered as aforesaid, who shall lend such ^abadge to any other person, and every person who shall wear or use the ^abadge of any other ¹[mazdoor] ;

shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment, not exceeding one week.

¹ See foot-note 1 on page 566, *ante*.

^a See foot-note 2 on page 566, *ante*.

of 1883.]

(Scetions 17—20.)

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any ¹[mazdoor] so neglecting to deliver up his ²license or ²badge at any period, within twelve calendar months, after the expiration of the ²license.

17. Every ¹[mazdoor] or other person who shall, for the purpose of deception, use or wear or have any ²badge resembling any ²badge granted under the authority of this Act shall for every such offence be liable to a penalty not exceeding ten rupees or in default of payment to imprisonment not exceeding one month.

Penalty for using or having a counterfeit badge.

And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such ²badge, or any ²badge used for the purpose of deception as aforesaid, wheresover the same may be found, and to deliver the same to the registering-officer.

18. Every ¹[mazdoor] empowered to work by the job, or for any period of time not exceeding twenty-four hours, who shall be in possession of any lost or unclaimed property shall within twenty-four hours carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the sub-inspector or other officer on duty; and any such ¹[mazdoor] making default herein shall be liable to penalty not exceeding five rupees, or, in default of payment, to imprisonment not exceeding one week.

Penalty for not depositing lost or unclaimed property.

19. Whenever any ¹[mazdoor] shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his ²license, and produce the same if required so to do; and any ¹[mazdoor] who shall on such requisition fail, without reasonable cause, to produce such ²license, shall for every such offence be liable to a fine not exceeding five rupees.

Conviction to be endorsed on mazdoor's license. Penalty for failing to produce license.

It shall be lawful for any Magistrate, on conviction of any ¹[mazdoor] of any offence under this Act, to endorse on such ²license the nature of the offence, the date of the conviction and the penalty inflicted.

20. It shall be lawful for any Magistrate before whom any ¹[mazdoor] shall be convicted of any offence, whether, under this Act or under any other law in force, to revoke the ²license of such ¹[mazdoor] or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the ¹[mazdoor] or any other person in whose possession such ²license and the ²badge (if any) thereto belonging shall then be to deliver up the same;

Revocation or suspension of mazdoor's license on his conviction of any offence.

and every ¹[mazdoor] or other person who, being so required, shall refuse or neglect to deliver up such ²license and such ²badge, or either of them, shall be liable to a penalty, not exceeding ten rupees, so often as he shall be so required, and refuse or neglect as aforesaid;

and the Magistrate shall immediately send every ²license and every ²badge delivered up to him, under this section to the registering-officer, who shall cancel such ²license if it has been

¹See foot-note 1 on page 566, ante.

²See foot-note 2 on page 566, ante.

[Ben. Act V of 1883.]

(Sections 21—23.)

revoked by the Magistrate, or, if it has been suspended, shall, at the end of the time for which it shall have been suspended, re-deliver such ¹license with the ¹badge (if it shall have come into the possession of the registering-officer) to the ²[mazdoor] to whom it was granted.

Penalty
for
refusing to
pay legal
fare.

21. If any person who shall have hired any ²[mazdoor] shall refuse to pay such ²[mazdoor], or any authorized agent on his behalf, the proper sum payable for such hiring, it shall be lawful for any Magistrate to order payment of such sum and also such compensation as shall seem reasonable; and, in default of payment, such sum and compensation may be recovered in the same way as fines are recoverable under any Act for the time being in force for the regulation of municipalities.

Juris-
diction.

22. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed, but such Magistrate shall be subject to the provisions of the Code of Criminal Procedure ³[1898,] as to the amount of fine or imprisonment he may inflict :

Act V of
1898.

Provided that the provisions of this section shall not apply to section 12 of this Act.

23. [Disposal of fines.]—Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

¹ See foot-note 2 on page 566, *ante*.

² See foot-note 1 on page 566, *ante*.

³ This figure was inserted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Bengal Act II of 1884

[The Calcutta Tramways (Amendment) Act, 1884.]¹

SHORT TITLE GIVEN

Act I of 1903.

REPEALED IN PART AND AMENDED

Act I of 1903.

ADAPTED

...

... { (a) The Government of India
(Adaptation of Indian Laws)
Order, 1937.
(b) The Adaptation of Laws
Order, 1950.

(30th April, 1884.)

An Act to amend the Calcutta Tramways Act, 1880.

Whereas it is expedient to facilitate the construction and regulate the working of tramways within such portions of Calcutta as are not ²[subject to the authority of the Corporation of Calcutta], and to make due provision for their general management, supervision and control; and whereas it is necessary to amend the Calcutta Tramways Act, 1880, for the purposes aforesaid;

Preamble.

Ben. Act I
of 1880.

It is hereby enacted as follows :—

1. This Act shall be read with, and taken as part of, the Calcutta Tramways Act, 1880.

Construction
of
Act.

(Commencement.)—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

2. (Definition of "Calcutta").—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).

3. All tramways constructed ³[in those portions of Calcutta as defined in the Calcutta Municipal Act, 1899⁴, which are not subject to the authority of the Corporation of Calcutta] shall be subject to the general management, regulation and control of the

Certain
tramways
to be
subject to
State
Govern-
ment.

Ben. Act
III of
1899.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1884, Part IV, page 52, and for Proceedings in Council, see *ibid*, Supplement, pages 395, 464, 497 and 514.

LOCAL EXTENT.—Since this Act is (see sec. 1) to be read with and taken as part of the Calcutta Tramways Act, 1880 (Ben. Act I of 1880), it has the same local extent as that Act.

²These words were substituted for the words and figure "situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876" by sec. 3 and the Second Sch. of the Amending Act, 1903 (I of 1903).

³These words and figure in sec. 3 were substituted for the words and figure "in Calcutta, but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876", *ibid*.

⁴Bengal Act III of 1899 was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923) and the latter Act was repealed by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951).

[Ben. Act II of 1884.]

(Secs. 4, 5.)

¹[State Government]; and the ¹[State Government] shall in this behalf exercise all the rights, powers, functions and authorities which would, under the provisions of the Calcutta Tramways Act, 1880, have been exercised by the Corporation if such tramways had been constructed wholly ²[within the area subject to their authority].

Ben. Act I
of 1880.

Corpora-
tion not
to have
control in
respect of
tramway
outside
limits
of the
town.

4. Nothing in this Act shall be construed so as to give the Corporation any control, power or authority in respect of any tramway or part of a tramway constructed ³[outside the area subject to their authority].

Retros-
pective
effect of
Act as to
tramways
already
construc-
ted.

5. The provisions of this Act and of the Calcutta Tramways Act, 1880, shall apply to any tramway that may have been constructed before this Act comes into force, notwithstanding any omission or irregularity in publishing any notice required to be published under section 4 of the said Calcutta Tramways Act, 1880.

¹The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words and figure "within the local limits of the town, as defined by the Calcutta Municipal Consolidation Act, 1876," by sec. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

³These words were substituted for the words and figure "outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876," by sec. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

Bengal Act I of 1885

(THE BENGAL FERRIES ACT, 1885.)

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Bengal Act I of 1885¹

(THE BENGAL FERRIES ACT, 1885.²)

REPEALED IN PART	...	Act II of 1901.
AMENDED	...	Ben. Act V of 1919.
REPEALED IN PART AND AMENDED		Ben. Act I of 1939.
ADAPTED	...	(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
		(b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
		(c) The Adaptation of Laws Order, 1950.

(27th May, 1885.)

An Act to regulate Ferries in Bengal.

WHEREAS it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal³ ; It is enacted as follows :—

Preamble.

Preliminary.

1. This Act may be called the Bengal Ferries Act, 1885.

Short title.

2. It shall extend to *⁴[the States⁵ of West Bengal and Bihar and to that part of the State⁶ of Orissa which on the first day of August 1885 was] subject to the Lieutenant-Governor of Bengal³ :

Extent and commencement of Act.

[And it shall come into force on such date⁷ as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf].

3. Regulation VI of 1819 and Bengal Act I of 1866 are hereby repealed ; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be respectively made, entered into and taken under this Act.

Regulation VI of 1819 and Ben. Act I of 1866 repealed.

¹This Act should be read with sec. 4 and Sch. I of the West Bengal Panchayat Act, 1957 (West Ben. Act I of 1957).

²LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the "Calcutta Gazette" of 1885, Pt. IV, page 89 ; and for Proceedings in Council, see *ibid*, Supplement, pages 546, 553, 657 and 678.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see sec. 2.

³This includes the present State of West Bengal and other territory.

⁴Substituted for the words "all the territories" by para. 8(1) and the Sch. to the Indian Independence (Adaptation of Bengal and Punjab Acts.) Order, 1948.

⁵The word "States" was substituted for the word "Provinces" by para. 4 (1) of the Adaptation of Laws Order, 1950.

⁶The word "State" was substituted for the word "Province", *ibid*.

⁷This Act came into force on the 1st August 1885—see the "Calcutta Gazette" of 24th June 1885, Pt. I, page 610.

[Ben. Act I

(Preliminary.—Part I.—Public Ferries.—Secs. 4—6.)

Act not to
apply to
municipal
ferries.

4. Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, ¹[1932].

Ben. Act
XV of
1932.

Interpreta-
tion.

5. In this Act, unless there be something repugnant in the subject or context,—

"Commis-
sioner."

"Commissioner" means the Commissioner of a Division :

"Ferry."

"ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage :

"Notifica-
tion."

"notification" means a notification published in the ²[*Official Gazette*] :

"Private
ferries."

"private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

PART I.

PUBLIC FERRIES.

Power to
declare,
establish,
define and
discontin-
ue public
ferries.

6. It shall be lawful for the ³[State Government] from time to time to—

- (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate ;
- (b) take possession of a private ferry and declare it to be a public ferry ;
- (c) establish new public ferries where, in ⁴[its] opinion, they are needed ;
- (d) define the limits of any public ferry ;
- (e) change the course of any public ferry ; and
- (f) discontinue any public ferry which ⁵[it] deems unnecessary.

¹This figure was substituted for the figure "1884" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "Provincial Government" were first substituted for the words "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴This word was substituted for the word "his" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵This word was substituted for the word "he", *ibid.*

of 1885.]

(Part 1. —Public Ferries.—Secs. 7—11.)

Every such declaration, establishment, definition, change or discontinuance shall be made by notification :

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

Control of public ferries vested in the Magistrate of the district.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the ¹[State Government] may, from time to time, either by name or by official designation, appoint.

Superintendence of public ferries.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

Ferry tolls may be leased by auction.

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Execution of contract by lessee.

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience : and all the

Provision for the establishment of subsidiary ferry.

¹See foot-note 3 on page 576, ante.

[Ben. Act I

(Part 1.—Public Ferries.—Secs. 12—15.)

provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

Recovery
of arrears
from
lessee.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease ;

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction ; and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under ¹[the Bengal Public Demands Recovery Act, 1913] or any other Act at the time being in force for the recovery of public demands.

Ben. Act
III of
1913.

Power to
cancel
lease.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Surrender
of lease.

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

Power to
make rules
in regard
to public
ferries.

15. The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules consistent with this Act,—

(a) for the management of all public ferries within such district, and for regulating the traffic at such ferries ;

(b) for regulating the time and manner at and in which the terms in which, and the person by whom, the tolls of such ferries may be leased by auction ;

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for ; and

(d) generally, to carry out the purposes of this Act :

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act,—

(e) for collecting the rents payable for the tolls of such ferries ;

(f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries ;

¹These words and figure were substituted for the words and figures "Bengal Act VII of 1880" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1885.]

(Part I.—Public Ferries.—Secs. 16, 17.)

(g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and

(h) in cases in which the traffic is conveyed in boats, for regulating—

the number and kinds of such boats and their dimensions and equipment ;

the number of the crew to be kept by the lessee for each boat ;

the maintenance of such boats in good condition ;

the hours during which, and the intervals within which, the lessee shall be bound to ply ; and

the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip ;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the ¹[State Government], and shall be published in the ²[Official Gazette] in such manner as the ¹[State Government] directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry :

Provided that, in the case of any specified public ferry, the ¹[State Government] may, by notification, reduce or increase the said distance of two miles to such extent as ³[it] thinks fit :

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

Private ferry not to ply within two miles of public ferry without sanction.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

Claims for compensation, and what amount to be awarded.

¹See foot-note 3 on page 576, ante.

²See foot-note 2 on page 576, ante.

³This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act I

(Part I.—Public Ferries.—Part II.—Private Ferries.—
Secs. 18—22.)

Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

Tolls.

18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things ¹crossing any river by a public ferry and not employed or transmitted on the public service :

Provided that the ²[State Government] may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of
tolls.

19. The lessee or other person authorised to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry :

List of
tolls.

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

20. [Tolls, rents, compensation and fines how to be appropriated.]—Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

Compound-
ing for
tolls.

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II.

PRIVATE FERRIES.

Power to
make rules
in regard
to private
ferries.

22. The Commissioner may from time to time make rules consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

¹So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 8 of the Indian Tolls (Army) Act, 1901 (II of 1901), is repealed by sec. 8 of that Act.

²See foot-note 3 on page 576, *ante*.

of 1885.]

(Part II.—Private Ferries.—Part III.—Penalties and Criminal Procedure.—Secs. 23—27.)

Rules made under this section shall be subject to the control of the ¹[State Government], and shall be published in the ²[*Official Gazette*] in such manner as the ¹[State Government] directs, and shall thereupon have the force of law.

PART III.

PENALTIES AND CRIMINAL PROCEDURE.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees.

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or, having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

Penalty for taking unauthorised tolls, and for causing delay.

Penalty for breach of rules made under sections 15 and 22.

Cancellation of lease on default or breach of rules.

Penalties on passengers offending.

¹ See foot-note 3 on page 576, *ante*.

² See foot-note 2 on page 576, *ante*.

[Ben. Act I

(Part III.—Penalties and Criminal Procedure.—Sections 28—32.)

who obstructs any toll-collector, or lessee of the tolls of any public ferry, or any of his assistants in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

Penalty for
plying
within
public
ferry-course
without
license.

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty rupees.

Fines
payable
to lessee.

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may ¹ * * * be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for
rash
navigation
and stack-
ing of
timber.

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

Power to
arrest
without
warrant.

31. The police may arrest without warrant any person committing an offence against section 27 or section 30.

Magistrate
may assess
damage
done by
offender.

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

¹The words, "notwithstanding anything contained in section 20," were repealed by sec. 8 and Sch. II of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1885.]

(Part III.—Penalties and Criminal Procedure.—Part IV.—
Miscellaneous.—Secs. 33, 34.)

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances :

Power to take possession of boats and other appliances on surrender or cancellation of lease.

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of ¹[Government] on duty, or of any other persons on the business of ¹[Government] or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of ¹[Government] the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the ²[Central Government, where the transport is in connection with the affairs of the Central Government, and the State³ Government in other cases] may in each case direct) until such transport is completed.

Similar power in cases of emergency.

¹This word was substituted for the words "Her Majesty" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the word "Lieutenant-Governor" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Substituted for the words "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

[Ben. Act I of 1885.]

(Part IV.—Miscellaneous.—Sections 35, 36.)

Management may be vested in local authority:

¹35. It shall be lawful for the ³[State Government] to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, ⁵[and thereupon the ferries shall be managed accordingly.]

²35. It shall be lawful for the ⁴[State Government] to order that any public ferry situated in any district in which a district board has been established under the provisions of the Bengal Local Self-Government Act of 1885 shall be managed by such District Board; and such District Board shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, ⁶[and thereupon the ferries shall be managed accordingly].

Management may be vested in District Board.

Ben. Act III of 1885.

The ⁷[State Government] may from time to time vary or annul any order made under this section.

Delegation of powers.

36. The ⁸[State Government] may, from time to time, delegate, under such restrictions as ⁹[it] thinks fit, any of the powers conferred on ⁸[it] by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as ⁹[it] thinks fit, by name or by official designation.

¹Section 35 is in force in this form in areas in which Bengal Act V of 1919 is in force. See Sch. I to that Act.

²Section 35 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

³These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the word "Lieutenant-Governor", *ibid.*

⁵These words were substituted for the words from "and the Lieutenant-Governor" (or, as the case may be, from "and the Local Government") to "accordingly" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶See foot-note 3 on page 576, *ante*.

⁷This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸This word was substituted for the word "him", *ibid.*

Bengal Act III of 1885

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885.)

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Bengal Act III of 1885

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885)

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THE FOURTH SCHEDULE.—CORRUPT PRACTICES.

Bengal Act III of 1885¹

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885.)²

AMENDED	...	...	<div style="display: inline-block; vertical-align: middle; font-size: 4em; line-height: 1;">{</div> <p>Act I of 1903, Ben. Act VII of 1930, Ben. Act XXIV of 1932, Ben. Act II of 1933, Ben. Act XI of 1934, Ben. Act XIV of 1936, Ben. Act XV of 1936, Ben. Act III of 1943, West Ben. Act IX of 1947, West Ben. Act VII of 1949, West Ben. Act XIX of 1949, West Ben. Act XXVII of 1950, West Ben. Act III of 1954, West Ben. Act V of 1960, West Ben. Act II of 1961, West Ben. Act XVII of 1961, West Ben. Act VIII of 1963.</p>
REPEALED IN PART AND AMENDED			<div style="display: inline-block; vertical-align: middle; font-size: 4em; line-height: 1;">{</div> <p>Ben. Act V of 1908, Ben. Act I of 1914, Ben. Act V of 1919, Ben. Act I of 1939, Ben. Act III of 1941.</p>
ADAPTED	...	...	<div style="display: inline-block; vertical-align: middle; font-size: 4em; line-height: 1;">{</div> <p>(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.</p>

(22nd July, 1885.)

An Act to extend the system of Local Self-Government in Bengal.

¹This Act should be read with sec. 4 and Sch. 1 of the West Bengal Panchayat Act, 1957 (West Ben. Act 1 of 1957).

In terms of the provisions of sub-section (3) of sec. 3 of read with Schedule III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (West Ben. Act XIX of 1958), this Act shall not extend to, or come into force in, the territories transferred from the State of Bihar to the State of West Bengal by sec. 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

²LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* the "Calcutta Gazette" of 1883, Part IV, page 99; for Preliminary Report of Select Committee, *see* *ibid*, 1884, Part IV, page 61; for further Report of Select Committee, *see* *ibid*, 1885, Part IV, page 13; and for Proceedings in Council, *see* 1883, Supplement, pages 90, 260, 365, 401 and 529; *ibid*, 1884, Supplement, pages 262 and 560; *ibid*, 1885, Supplement, pages 549, 658 and 688.

LOCAL EXTENT.—As to the local extent of this Act, *see* sec. 1. The Act is in force throughout the present State of West Bengal except—

- (1) the town of Calcutta and
- (2) State municipalities.

LOCAL REPEAL.—As to the repeal of Ben. Act III of 1885 (or portions thereof) in areas in the neighbourhood of the Calcutta Municipality, on the extension thereto of the Calcutta Improvement Act, 1911 (or portions thereof), *see* sec. 147(2) of the latter Act.

As to the repeal or amendment of portions of this Act in areas in West Bengal declared to be a Union under the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919), *see* sec. 2 and Sch. I to that Act.

[Ben. Act III*(Preliminary.—Sections 1—3.)*

WHEREAS it is expedient to extend the system of Local Self-Government within the territories subject to the [Government of Bengal]¹ ;

It is enacted as follows :—

PRELIMINARY.

Short title. 1. This Act may be called the Bengal Local Self-Government Act of 1885.

Extent. It shall extend to all the territories subject to the ²[Government of West Bengal³] which are not included within the limits of the town of Calcutta, * * *⁴ or of any place or town to which the provisions of the Bengal Municipal Act, ⁵[1932], have been, or may hereafter be extended ;

Ben. Act
XV of
1932.

**Commence-
ment.** And it shall come into force in any district on such date as the ⁶[State Government] may, by notification, direct.

[Any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act, after it shall have received the assent of the Governor General and shall take effect in any district on this Act coming into force therein.]

**Enact-
ments
repealed
and
amended.** 2. On this Act coming into force in any district, the enactments specified in the first and second schedules shall, as regards such district, be repealed to the extent mentioned in the third column of the first schedule, and be amended to the extent mentioned in the third column of the second schedule.

But this repeal shall not revive any office, authority or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this Act.

**Office held
under
repealed
provisions
of Bengal
Act IX
of 1880 to
continue in
existence
until
its aboli-
tion or con-
firmation by
District
Board.** 3. Every person holding office in any district under the repealed provision of the Cess Act, 1880, shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the District Board established in such district under the provisions of this Act :

Ben. Act
IX of
1880.

¹These words were substituted for the words "Government of the Lieutenant-Governor of Bengal" and "Lieutenant-Governor of Bengal" respectively, by the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932), sec. 3.

²See foot-note 2 on page 595, *ante*.

³The words "West Bengal" were substituted for the word "Bengal" by para. 3 (2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1950.

⁴The words "or of the districts or Singhbhum, the Sonthal Parganas or the Chittagong Hill-Tracts," in section 1, were repealed, in Western Bengal, by Bengal Act V of 1908, sec. 2 and are omitted. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I. The reference to Chittagong Hill-Tracts was repealed as having been superseded by the Chittagong Hill-Tracts Regulation, 1900 (I of 1900), sec. 4.

⁵This figure was substituted for the figure "1884" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

of 1885.]

(Preliminary.—Sections 4, 5.)

Provided that, if for a period of twelve months from the date on which this Act comes into force in any district, the District Board does not abolish such office or make such appointment as aforesaid, the persons holding such office shall be deemed to have been appointed to it under the provisions of this Act :

Provided, further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation, pension or gratuity shall be paid from the District Fund to any person not being a servant of the ¹[Government] who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880 ; or, if no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation, pensions and gratuities to uncovenanted servants of the ¹[Government].

Ben. Act IX
of 1880.

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment without the sanction of the ²[Central Government], previously obtained.

Act not to come into force in cantonments without sanction of the Central Government.

5. In this Act, unless there be something repugnant in the subject or context,—

“Commissioner” means the Commissioner of a Division :

³“corrupt practice” means any act deemed to be a corrupt practice under the provisions of the Fourth Schedule :

Interpretation.
“Commissioner.”
“Corrupt practice.”
“Local authority.”

“Local authority.”

⁴“local authority” means District Board or Local Board, Joint Committee, Union Committee or Joint Union Committee constituted under this Act :

⁵“local authority” means any District Board, Local Board, or Joint Committee constituted under this Act or any Union Board constituted under the Bengal Village Self-Government Act, 1919 :

Ben. Act V of 1919.

“municipal authority” means the commissioners of a municipality constituted under the provisions of the Bengal Municipal Act, ⁶[1932] :

“Municipal authority.”

Ben. Act XV of 1932.

¹The word “Crown” was first substituted for the word “Government” by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word “Government” was substituted for the word “Crown” by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words “Governor-General in Council” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³This definition was inserted in section 5 by sec. 5 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴This clause is in force in this form in areas in which Bengal Act V of 1919 is not in force,

⁵This clause is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 1 of Sch. 1 to that Act.

⁶See foot-note 4 on page 596, ante.

[Ben. Act III

(Preliminary.—Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 6.)

"Notifi-
cation."

"Magis-
trate of
of the
district."

"Salaried
servant
of the
Govern-
ment."

"Financial
year."

"Cess
year."

"Sanita-
tion."

"notification" means a notification published in the ¹[*Official Gazette*] :

"Magistrate of the district" includes any Magistrate subordinate to the Magistrate of the district, to whom he may delegate all or any of his powers under this Act :

the term "salaried servant" ²[of the Government]" does not include a retired servant ³[of the Government] in receipt of a pension :

⁴"Financial year" means the year commencing on the first day of April : ⁴"Financial year" or "year" means the year commencing on the first day of April :

"cess year" means the year as fixed by the ⁵[State Govern-
ment] under ⁶[the Cess Act, 1880] : [and

"sanitation" includes water-supply.]⁷

Ben. Act
IX of
1880.

PART I.—Local Authorities.

CHAPTER I.

DISTRICT BOARDS AND LOCAL BOARDS.

Constitution of District Boards and Local Boards.

District
Boards
and Local
Boards.

⁸6. The ⁴[State Govern-
ment] shall, by notification,
establish a District Board for
every district.

The ⁵[State Government]
may, by notification, establish a
Local Board in any subdivision

⁹6. The ⁵[State Govern-
ment] shall, by notification,
establish a District Board for
every district.

The ⁵[State Government] may,
by notification, establish a Local
Board in any subdivision *or part*

District
Boards
and Local
Boards.

¹These words were substituted for the words "*Calcutta Gazette*" by para-
graph 4(1) of the Government of India (Adaptation of Indian Laws) Order,
1937.

²The words "of the Crown" were first substituted for the words "of
Government" by para. 3 and Schedule IV of the Government of India
(Adaptation of Indian Laws) Order, 1937. Thereafter, the word "Government"
was substituted for the word "Crown" by para. 4(1) of the Adaptation of
Laws Order, 1950.

³This definition is in force in areas in which sec. 3 of the Bengal Local
Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is not in
force.

⁴This definition is in force in areas in which sec. 3 of the Bengal Local
Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is in force.

⁵See foot-note 5 on page 596, *ante*.

⁶These words and figures were substituted for the words and figures "the
Cess Act of 1880" by sec. 2 and the First Sch. of the Bengal Repealing and
Amending Act, 1938 (Ben. Act I of 1939).

⁷These words within square brackets were added for Western Bengal by
Bengal Act V of 1908, sec. 8. That Act was extended to Eastern Bengal by
Bengal Act I of 1914, sec. 3 and Sch. I.

⁸Section 6 is in force in this form in areas in which Bengal Act V of 1919
is not in force.

⁹Section 6 is in force in this form in areas in which Bengal Act V of 1919
is in force—see item No. 2 of Sch. I to that Act.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 7.)

or in any two or more subdivisions combined, and may cancel or vary any such notification :

of a subdivision^{*1} or in any two or more subdivisions combined, and may cancel or vary any such notification :

¹Provided that a Local Board shall be established in every subdivision of every district mentioned in the third Schedule of this Act^{**}

* * *

²Provided that a Local Board shall be established in every district or part of a district in which the Bengal Village Self-Government Act, 1919, is in force.

Ben. Act
V of 1919.

A District Board shall have authority for the purposes of this Act, over the district for which it is established, and a Local Board shall have authority over such subdivision or subdivisions as the ⁴[State Government] may, by notification, direct.

A District Board shall have authority, for the purposes of this Act, over the district for which it is established, and a Local Board shall have authority over such area as the ⁴[State Government] may, by notification, direct.

7. ⁵[A district Board shall consist of such number of members not being less than nine as the ⁴(State Government) may, by notification, fix in this behalf, and all the members shall be elected.]

Constitu-
tion of
District
Boards.

When a Local Board has been established in any district, such Local Board shall be entitled to elect such proportion of the whole of the District Board as the ⁴[State Government] shall from time to time direct :

¹The word "or" was omitted by sec. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²This proviso is repealed in the areas in which sec. 4 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is in force—see sec. 4 thereof.

³The words "and in any other subdivision to which the provisions of the next succeeding chapter shall have been extended" were repealed in Western Bengal, by Bengal Act V of 1908, sec. 2, and are omitted. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴See foot-note 5 on page 596, *ante*.

⁵Substituted by sec. 2 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947) for the original paragraph.

⁶The proviso and the word "also" were omitted by sec. 2 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947).

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 7A.)

¹Provided ** that no person shall be elected a member of the District Board unless he be qualified for election as a member of some Local Board in the district under the provisions of section 13 of this Act.

²Provided ** that no person shall be elected a member of the District Board [by a Local Board] unless he be qualified for election as a member of some Local Board in the district under the provisions of section 13 of this Act.

³[When a Local Board is abolished in any district under section 36A, the provisions of Chapter IA shall apply in regard to the proportion of the whole of the District Board to be elected from the area which was under the authority of the Local Board and to the qualifications of voters and candidates.]

* * * * *

⁴[When no Local Board has been established in any district, the members of the District Board shall be elected by persons entitled to vote under section 7A within such time and in accordance with such rules as may be prescribed in this behalf by the State⁵ Government under clause (a) of section 138.]

Qualifications of voters of District Boards in areas where no Local Board has been established.

⁶7A. (1) Every ¹⁰* person of the full age of twenty-one years and having a place of residence in a district referred to in the fourth paragraph of section 7 shall, subject to the provisions of section 15A, be qualified to vote at an election of the members of the District Board of such district if such person—

- (i) has, during such period of twelve months as may be prescribed by rules made under section 138, paid a sum of not less than eight annas as cess under the Cess Act, 1880, in respect of lands situated wholly or in part in such district, or

Ben. Act
IX of
1880.

¹This proviso is in force in the areas in which sec. 5 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is not in force.

²See foot-note 6 on page 599, *ante*.

³This proviso is in force in the areas in which sec. 5 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is in force.

⁴These words were inserted by sec. 5(3) of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936).

⁵This paragraph was inserted by sec. 5(4), *ibid*.

⁶The last paragraph and the proviso were omitted by sec. 2 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947).

⁷Inserted by sec. 2 of the West Bengal Local Self-Government (Amendment) Act, 1949 (West Ben. Act VII of 1949).

⁸Substituted for the word "Provincial" by para 4(1) of the Adaptation of Laws Order, 1950.

⁹Inserted by sec. 8 of the West Bengal Local Self-Government (Amendment) Act, 1949 (West Ben. Act VII of 1949).

¹⁰The word "male" was omitted by the Bengal Local Self-Government (West Bengal Amendment) Act 1950 (West Ben. Act XXVII of 1950).

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 7B, 8.)

Ben. Act
V of
1919.

(ii) has, during the period aforesaid, been assessed at and paid a sum of not less than six annas for the purposes of the union rate payable under the Bengal Village Self-Government Act, 1919, or as *chaukidari-tax*, or

(iii) is a member of a joint undivided family, which, during the period aforesaid, has paid a sum of not less than eight annas as such cess or less than six annas as such rate or tax, or

Ben. Act
VI of
1914.

(iv) is a graduate or licentiate of any University, or has passed the Matriculation examination of the Calcutta University, or a corresponding standard of the same or any other University, or the high school examination of the Board of Intermediate and Secondary Education, Dacca, or the senior or junior madrasah examination under the old or the reformed scheme, or the Sanskrit title examination of the Calcutta Sanskrit Association, or the middle English or the middle vernacular examination, or is a registered medical practitioner under the Bengal Medical Act, 1914, or holds a certificate authorising him to practise as a pleader or a *muktear* or as a revenue agent :

Provided that only one member of a joint undivided family qualified under clause (iii) and nominated by the other qualified members of that family shall be entitled to vote on its behalf at any such election.

(2) A person qualified under sub-section (1) shall be entitled to vote at such election if his name is included in the electoral roll prepared for the purpose of such election in accordance with such rules as may be prescribed in this behalf under clause (a) of section 138 but not otherwise.

¹7B. A person shall not be qualified for election as a member of a District Board under the fourth paragraph of section 7 unless his name is included in an electoral roll prepared for the purpose of election of members of the said District Board.

Qualifica-
tions for
election as
a member
of a
District
Board in
areas where
no Local
Board has
been es-
tablished.

8. A Local Board shall consist of such number of members not being less than six, as the ^a[State] Government may, by notification, fix in this behalf.

Constitu-
tion of
Local
Boards.

¹Inserted by sec. 3 of the West Bengal Local Self-Government (Amendment) Act, 1949 (West Ben. Act VII of 1949).

^aSee foot-note 8 on page 600, *ante*.

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 9.)

State Government to make rules for qualification of persons entitled to vote for election of members of Local Boards.

¹9. Two-thirds of the members of each Local Board established in a district mentioned in the third schedule of this Act shall be elected under such rules, consistent with this Act, as the ²[State] Government may make for each Local Board in respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and mode of election :

Provided that every ³* person of the full age of twenty-one years resident within the area under the authority of a Local Board who is qualified in one of the manners following, that is to say :—

Qualification of electors.

(1) is a member of a Union Committee within such area ;

(2) has during the year immediately preceding such election—

(a) paid a sum of not less than one rupee on account of road cess in respect of lands situated either wholly or in part within such area ;

⁶*

or

(c) been possessed of a clear annual income from any source of not less than two hundred and forty rupees ;

⁴9. (1) Such proportion of the members of a Local Board as the ⁵[State] Government may from time to time direct, shall be elected by persons entitled to vote at an election of members of a Union Board within the area under the authority of the Local Board within such time and in accordance with such rules as may be prescribed in this behalf under clause (a) of section 138 :

Qualifications of voters and members of Local Boards.

Provided that not less than two-thirds of the members of a Local Board shall be elected.

(2) Every person who is qualified to vote at an election of members of a Union Board within the area under the authority of a Local Board ⁵[shall, subject to the provisions of section 15A, be entitled] to be a member of the Local Board if duly elected thereto.

¹Section 9 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

²See foot-note 8 on page 600, *ante*.

³See foot-note 10 on page 600, *ante*.

⁴Section 9 is in force in this form in areas in which Bengal Act V of 1919 is in force—See item No. 4 of Sch. I to that Act.

⁵These words, figures and letter within square brackets in sec. 9, were substituted for the words "shall be entitled" by sec. 7 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶The letter and words "(b) paid license tax in respect of a trade, dealing or industry carried on within such area" in the proviso to s. 9, were repealed by Bengal Act I of 1914, sec. 6 and Sch. IV.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 10, 10A.)

- (3) *being a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar ;*

¹*[shall, subject to the provisions of section 15A, be entitled] to vote at an election of members of such Local Board.*

²10. (1) If, within the time prescribed by rules made by the ³[State Government] under section 138, ⁴[the electors fail to elect any member or members of any District Board or Local Board], the vacancy or vacancies shall be filled by another election to be held on such date as may be appointed by the ⁵[State] Government by notification.

Procedure for filling vacancies if prescribed proportion of members of District or Local Board is not duly elected.

(2) If for any reason the ⁶[vacancy or vacancies are] not filled at such second election, the ⁷[State] Government may appoint a member or members to ⁸[fill up the vacancy or vacancies] ; and any person so appointed shall be deemed to be a duly elected member.

⁹10A. (1) The State Government if it considers necessary, may, by order published in the *Official Gazette*, reserve for members of the Scheduled Tribes a number of seats on a District Board or Local Board among the seats to which members of the District Board or Local Board are to be elected.

Representation of Scheduled Tribes.

(2) The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to which the members of the District Board or Local Board are to be elected as the population of the Scheduled Tribes in the area under the authority of the District Board or Local Board bears to the total population in such area.

¹See foot-note 5 on page 602, *ante*.

²Substituted for the former section by sec. 8 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³See foot-note 5 on page 596, *ante*.

⁴Substituted by sec. 8 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947), for the original words.

⁵See foot-note 8 on page 603, *ante*.

⁶Substituted by sec. 8 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947) for the words "prescribed proportion of elected members is".

⁷Substituted, *ibid* for the words "make up that proportion".

⁸Substituted for the former section 10A by sec. 5 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act XXVII of 1950).

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 11—13.)

(3) No member of the Scheduled Tribes for members of which seats are reserved under sub-section (1) shall, if eligible for election, be disqualified from election to any seat not so reserved.

(4) In this section, the expression "Scheduled Tribes" has the same meaning as in clause (25) of Article 366 of the Constitution of India.

Appoint-
ment of
members
of Local
Boards by
State
Govern-
ment to
take effect
on result
of election.

¹¹ One-third of the members of each Local Board established in a district mentioned in the third Schedule of this Act shall be appointed by the ¹[State] Government immediately after the result of the election mentioned in section 9 ²[or of the second election referred to in section 10] shall have been notified to ⁴[it], and such appointment shall be deemed to have been made on the date on which such election takes place.

¹¹ The remaining proportion of the members of each Local Board shall be appointed by the ³[State] Government immediately after the result of the election mentioned in section 9 ⁵[or of the second election referred to in section 10] shall have been notified to ⁴[it], and such appointment shall be deemed to have been made on the date on which such election takes place.

Appoint-
ment of
members
of Local
Boards by
State
Govern-
ment to
take effect
on result
of election.

Proportionate
number of
members
how to be
ascertained
if the whole
number is
not evenly
divisible
by two or
by three.

¹² In case where the whole number of members is not evenly divisible by two or by three, the one-half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

¹² In cases where the whole number of members is not evenly divisible by two the one-half shall be ascertained by taking the number next below the whole number which is evenly divisible by two as the number to be divided.

Proportionate
number of
members
how to be
ascertained
if the whole
number is
not evenly
divisible
by two.

Qualifica-
tion for
election as
members
of Local
Boards
establis-
hed in
districts
mentioned
in
Schedule.

¹³ The ²[State] Government shall make rules, consistent with this Act, defining the qualifications

¹Sections 11 and 12 are in force in this form in areas in which Bengal Act V of 1919 is not in force.

²See foot-note 8 on page 600, ante.

³These words and figures within square brackets in sec. 11 were inserted by sec. 9 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932.)

⁴The word "it" in sec 11 was substituted for the word "him" by sec. 9 of the Bengal Local Self Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932.)

⁵Sections 11 and 12 are in force in this form in areas in which Bengal Act V of 1919 is in force—see items Nos. 5 and 6 of Sch. I of that Act.

⁶Section 18 is repealed in areas in which the Bengal Village Self-Government Act, 1919 (Ben. Act V of 1919) is in force—see item No. 7 of Sch. I to that Act.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 13.)

of candidates for election as members of each Local Board established in a district mentioned in the Third Schedule of this Act :

Provided that every^{1*} person of the full age of twenty-one years who is qualified in one of the manners following, that is to say:—

(1) is a member of a Union Committee within the area under the authority of such Local Board ;

(2) has, during the year immediately preceding such election, had his fixed place of abode within ²[the subdivision for which such Local Board has been established] ; and

(a) paid a sum of not less than five rupees on account of road cess in respect of land situated, either wholly or in part, within the area under the authority of such Local Board ;
* * * ; or

(c) been possessed of a clear annual income from any source of not less than one thousand rupees ;

(3) being a member of a joint undivided family, one of the members of

¹The word "male" was omitted by sec. 6 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act XXVII of 1950).

²These words within square brackets in sec. 13 were substituted for the words "the area under the authority of such Local Board" for Western Bengal by sec. 6 of Bengal Act V of 1908. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. 1.

³The letter and words "(b) paid a license-tax of not less than twenty rupees in respect of a trade, dealing or industry carried on within the area under the authority of such Local Board" were repealed by Bengal Act I of 1914, sec. 6 and Sch. IV.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 14, 15.)

which is qualified for election under clause (1) or clause (2) (a)¹* of this proviso, is a graduate or licentiate of any university, or holds a certificate as a pleader or *mukhtar* ;

²[shall, subject to the provisions of section 15A, be deemed to be qualified] for election as a member of such Local Board.

State Government may add names of districts, not already included, to Schedule.

³14. It shall be lawful for the ⁴[State Government] by notification from time to time, to add the name of any district to the list included in the Third Schedule of this Act.

From and after the date of such notification such district shall, for the purposes of this Act be deemed to be a district mentioned in such schedule.

Constitution of Local Boards in districts not mentioned in Schedule.

⁵15. The members of a Local Board, established in a district not mentioned in the Third Schedule of this Act, shall be appointed by the Commissioner⁶, either by name or by official designation :

Provided that not more than one-half of the whole number shall be salaried ⁷[servants of the Government] :

¹The word, brackets and letter "or (b)" were repealed by sec. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²These words, figures and letter within square brackets in sec. 13 were substituted for the words "shall be deemed to be qualified" by sec. 10 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³Section 14 is repealed in areas in which Bengal Act V of 1919 is in force—see item No. 7 of Sch. I of that Act.

⁴See foot-note 5 on page 596, *ante*.

⁵Section 15 is repealed in areas in which Bengal Act V of 1919 is in force—see item No. 7 of Sch. I to that Act.

⁶The word "Commissioner" was substituted for the word "Lieutenant-Governor," for Western Bengal by Bengal Act V of 1908, sec. 4(2). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁷The words "Servants of the Crown" were first substituted for the words "Servants of the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 15A, 16.)

Provided, further, that the ¹[State Government], may, at any time in regard to any local Board, direct that two-thirds of the members of such Local Board shall be elected under the provisions of sections 9, 10 and 13, and that one-third shall be appointed under the provisions of section 11.

XXXIX
of 1920.

Act XLV
of 1860.

²15A. Notwithstanding anything contained in the Indian Election Offences and Inquiries Act, 1920, if any person is convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months, or is, after due inquiry, found by ³[the Judge under section 18D], to have committed a corrupt practice as specified in Part I, or in [paragraphs⁴] 1, 2 or 3 of Part II of the Fourth Schedule, such person shall not be entitled to vote at an election of members of any local authority (other than a Joint Committee or Joint Union Committee) or be eligible for election or appointment as a member of any such local authority for five years from the date of such conviction or of the finding of ⁵[the Judge], as the case may be; and a person reported by ⁶[the Judge] to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date:

General
disqualifi-
cations for
voting for,
or mem-
bership of,
local
authority.

Provided that any disqualification mentioned in this section may be removed by an order of the ¹[State Government] in that behalf.

16. (*Term of office of members of District Board and Local Board.*)—*Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908), sec. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 3 and Sch. I.*

¹See foot-note 5 on page 596, *ante*.

²This section 15A was inserted by sec. 11 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³These words, figures and letter were substituted for the words, figures and letters "the authority appointed under clause (a) of section 138 to decide disputes relating to elections" by sec. 2(1) of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

⁴*Sic*—read "paragraph."

⁵These words were substituted for the words "the said authority" by sec. 2(2) of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

⁶These words were substituted for the words "such authority" by sec. 2(2), *ibid*.

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 16A.)

Deposit by
candidate
for election
to a Local
Board.

¹16A. ²(1) On or before the date fixed for the nomination of candidates, each candidate for election as a member of a Local Board shall deposit with the Magistrate of the district the sum of rupees fifty in cash, and no candidate shall be deemed to be duly nominated unless such deposit has been made :

¹16A. ²(1) On or before the date fixed for the nomination of candidates, each candidate for election as a member of a District Board or a Local Board shall deposit with the Magistrate of the district the sum of one hundred rupees in cash in the case of a District Board and the sum of fifty rupees in cash in the case of a Local Board, and no candidate shall be deemed to be duly nominated unless such deposit has been made :

Provided that the ⁴[State Government] may reduce the amount of deposit to twenty-five rupees in the case of such Local Board as it thinks fit.

Provided that the ⁴[State Government], if it thinks fit, may reduce the amount of deposit to fifty rupees in the case of any District Board and to twenty-five rupees in the case of any Local Board.

(2) If a candidate who has made a deposit under sub-section (1) withdraws his candidature before he is registered as a candidate or within three days of his registration or if his nomination is refused, his deposit shall be returned to him and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative.

(3) If the number of votes polled by a candidate who is not elected does not exceed ten *per cent.* of the total number of votes polled the deposit shall be forfeited to the District Fund.

⁵(4) The number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted. ⁶(4) Nothing in this section shall apply to an election of members of a District Board by a Local Board.

²Sections 16A and 16B were inserted by sec. 12 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³This sub-section (1) is in force in this form in the areas in which sec. 6 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936), is not in force.

³This sub-section (1) is in force in the areas in which sec. 6 of Ben. Act XIV of 1936 is in force.

⁴See foot-note 5 on page 596, *ante*.

⁵Sub-section (4) is in force in this form in the areas in which sec. 6 of Ben. Act XIV of 1936 is not in force.

⁵Sub-section (4) is in force in this form in the areas in which sec. 6 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936) is in force.

of 1885.] •

(Part 1.—Local Authorities.—Chapter 1.—District Boards and Local Boards.—Section 16 B.)

X of 1873.

¹16B. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected or appointed to be a member of a District Board or Local Board shall, before taking his seat, make ²[and subscribe]; ³[in the presence of the other members of the Board (or such number of them as would be sufficient to form a quorum at a meeting) assembled for a meeting of which notice has been given,] an oath or affirmation of his allegiance to the ⁴[Constitution of India] in the following form, namely :—

Oath of allegiance by members of District and Local Boards.

⁵["I, A. B., being a member of the District Board or the Local Board, do ⁶[swear in the name of God (or solemnly affirm)] that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."]

(2) Any person who, having been elected or appointed to be a member of a District Board or Local Board, fails to make within ⁷[three months of the date on which his term of office commences,] the oath or affirmation required by sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

Ben Act
XV of
1936.

⁸(3) Where any person has failed whether before or after the commencement of the Bengal Local Self-Government (Second Amendment) Act, 1936, to make the oath or affirmation of allegiance or has made such oath or affirmation otherwise than in accordance with the provisions of this section and the ⁹[State Government] is satisfied that the failure of such person to comply with the provisions of this section was due to inadvertence or misapprehension or circumstances beyond his control, or that such person is an alien exempted from the disabilities imposed by the Bengal (Aliens) Disqualification Act, 1918, in respect of election or appointment as a member of a District Board or Local Board, the ⁹[State Government] may declare that the failure of such person to comply with the provisions of this section is condoned.

Ben Act
III of
1918.

⁴See foot-note 1 on page 608, *ante*.

²Inserted by sec. 7 (a) of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act XXXVII of 1950).

³These words were substituted for the original words by sec 2(1) of the Bengal Local Self-Government (Second Amendment) Act, 1936 (Ben. Act XV of 1936).

⁴Substituted by sec. 4 of the Bengal Local Self Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947) for the word "Crown".

⁵Substituted, *ibid*, for the original words.

⁶Substituted by sec 7(b) of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act. XXVII of 1950) for the original words.

⁷These words were substituted for the words "the said period" by sec 2(2) of the Bengal Local Self-Government (Second Amendment) Act, 1936 (Ben. Act XV of 1936).

⁸Sub-section (3), (4) and (5) were added by sec. 2(3) of the Bengal Local Self-Government (Second Amendment) Act, 1936 (Ben. Act XV of 1936.)

⁹See foot-note 5 on page 596, *ante*.

Ben. Act III

(Part 1.—Local Authorities.—Chapter 1.—District Boards and Local Boards.—Section 17.)

¹(4) When a declaration has been made by the ²[State Government] under sub-section (3) in respect of any person, such person shall be deemed to have continued notwithstanding his default to hold his office, and all acts done by him or by the District Board or Local Board or by any officer or servant of such Board before the date of the said declaration shall be and shall be deemed to have always been as valid and lawful as if the person in respect of whom the declaration has been made had made the oath or affirmation of allegiance in accordance with the provisions of this section.

¹(5) Where all the members of a District Board or Local Board have failed to make the oath or affirmation under this section or where the number of members of any such Board who have made the oath or affirmation is insufficient to allow of a quorum being formed under the provisions of this Act and the ²[State Government] is not satisfied that the failure of the members who have failed to make the oath or affirmation was due to inadvertence or misapprehension or circumstances beyond their control, the ²[State Government] may, by an order published in the ³[Official Gazette], supersede the District Board or Local Board for a period to be specified in the order and thereupon in the case of a District Board the consequences specified in clauses (b) and (c) of section 132 and in the case of a Local Board the consequences specified in clause (b) of that section shall ensue. Thereafter the ²[State Government] shall, as soon as may be convenient, reconstitute the Board by a fresh general election ⁴[in the case of a District Board and by a fresh general election and fresh appointment in the case of a Local Board] and the persons who failed to make the oath or affirmation shall not be deemed disqualified for election or appointment.

Resigna-
tion of
members.

17. A member of a District Board or Local Board may resign by notifying in writing his intention to do so, ⁵[to the Chairman of the District Board or Local Board of which he is a member,] and, on such resignation being accepted by the ⁶[District Board or Local Board], respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.

¹See foot-note 8 on page 609, *ante*.

²See foot-note 5 on page 596, *ante*.

³See foot-note 7 on page 597, *ante*.

⁴Substituted by sec. 4 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947) for the words "and fresh appointment".

⁵These words were substituted for the words "in the case of a member of a District Board, to the Commissioner, and in the case of a member of a Local Board, to the District Board" by sec. 13 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932.)

⁶These words were substituted for the words "Commissioner or District Board" by sec. 13, *ibid*.

of 1885.]

(Part I.—Local Authorities.—Chapter 1.—District Boards and Local Boards.—Sections 17A, 18.)

Removal
of member
for mis-
conduct.

¹ ²17A. The ³[State Government] may, if it thinks fit, remove any member of a District Board, Local Board or Union Committee, on the ground of misconduct in the discharge of his duties, if the removal is recommended by a resolution of the Board or Committee, as the case may be, passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of members.

¹ ⁴17A. The ⁵[State Government] may, if it thinks fit, remove any member of a District Board or Local Board, on the ground of misconduct in the discharge of his duties, if the removal is recommended by a resolution of the Board, passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of members.

Removal
of member
for mis-
conduct.

Power of
Commis-
sioner to
remove
members.

²18. ⁵(1) The Commissioner may remove any member of a District Board,

⁴18. ⁵(1) The Commissioner⁶ may remove any member of a District Board or Local Board—

Power of
Commis-
sioner to
remove
members.

⁷[Local Board or Union Committee]—

(a) if he refuses to act, or becomes incapable of acting, or is declared insolvent * * * *

(a) if he refuses to act, or becomes incapable of acting, or is declared insolvent * * * *

¹This section 17A was inserted by sec. 14 of the Bengal Local Self-Government (Amendment) Act. 1932 (Ben. Act XXIV of 1932.).

²Sections 17A and 18 are in force in this form in areas in which Bengal Act V of 1919 is not in force.

³See foot-note 5 on page 596, ante.

⁴Sections 17A and 18 are in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 8 of Sch. I to that Act.

⁵This portion of sec. 18 was renumbered, s. 18, sub-section (1) for Western Bengal by Bengal Act V of 1908, sec 8(1). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁶The word "Commissioner" was substituted for the word "Lieutenant-Governor" for Western Bengal by Bengal Act V of 1908, sec. 8(2) (i)—see also foot-note 5 above.

⁷The words "Local Board or Union Committee" within square brackets in sec. 18, were substituted for the words "or Local Board" for Western Bengal by Bengal Act V of 1908, sec. 8(2) (ii)—see also foot-note 5 above.

⁸The words "or is convicted of any such offence, or subject by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him to be a member" were repealed, in Western Bengal, by Bengal Act V of 1908, sec. 8 (2) (iii), and are omitted—see also foot-note 5 above.

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 18A.)

(b) if he has been declared by notification to be disqualified for employment in the public service ;

(c) if he, without an excuse sufficient in the opinion of the Commissioner,¹ absents himself from six consecutive meetings of the Board ;

(d) when he is a salaried ²[servant of the Government], if his continuance in office is, in the opinion of the Commissioner,¹ undesirable.

(b) if he has been declared by notification to be disqualified for employment in the public service ;

(c) if he, without an excuse sufficient in the opinion of the Commissioner,¹ absents himself from six consecutive meetings of the Board ;

(d) when he is a salaried ²[servant of the Government], if his continuance in office is, in the opinion of the Commissioner,¹ undesirable.

³(2) Any member who is removed under sub-section (1) may appeal to the ⁴[State Government] whose decision shall be final.

³(2) Any member who is removed under sub-section (1) may appeal to the ⁴[State Government] whose decision shall be final.

Power of State Government to remove members after proceedings in Criminal Court,

⁵ *18A. The ⁴[State Government] may remove any member of a District Board, *Local Board or Union Committee* who is convicted of any such offence, or is subjected by a Criminal Court to any such order, as in the opinion of the

⁵ *18A. The ⁴[State Government] may remove any member of a District Board, or Local Board who is convicted of any such offence, or is subjected by a Criminal Court to any such order, as in the

Power of State Government to remove members after proceedings in Criminal Court.

¹The word "Commissioner" was substituted for the word "Lieutenant-Governor," for Western Bengal, by Bengal Act V of 1908, sec. 8(2) (i)—That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²The words "servant of the Crown" were first substituted for the words "servant of the Government" by para. 3 and Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937 and subsequently the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

³This sub-section was added for Western Bengal by Bengal Act V of 1908, s. 8(3)—see also foot-note 1 above.

⁴See foot-note 5 on page 596, *ante*.

⁵Section 18A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 9—see also foot-note 1 above.

*Section 18A is in force in this form in areas in which Bengal Act V of 1919 is not in force.

[†]Section 18A is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 8 of Sch. I to that Act.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 18B, 18C.)

¹[State Government] formed opinion of the ¹[State Government] after due inquiry, unfits him to be a member. ¹[State Government] formed after due inquiry, unfits him to be a member.

²18B. (1) If there is any dispute as to the validity of an election of a member of a District Board or a Local Board held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the result of such election, file a petition before the District Judge of the district within which the election has been held or should have been held, calling in question such election on one or more of the grounds set forth in clauses (a) to (e) of sub-section (1) of section 18D or section 18E.

Proceedings relating to disputes as to the validity of an election.

(2) In every petition filed under sub-section (1) all the candidates at the election to which the dispute relates shall be made parties.

(3) The petitioner shall, at the time of filing the petition under sub-section (1), deposit in Court one hundred rupees as security for the costs likely to be incurred by any of the respondents :

Provided that the validity of any election shall not be questioned in any petition under this section—

(a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll, or

(b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll.

³18C. (1) Where a petition has been filed under section 18B the District Judge or any judicial officer subordinate to him and not below the rank of a Subordinate Judge to whom the District Judge may transfer the petition (referred to in this chapter as the Judge), may hold such inquiry in accordance with the procedure prescribed by rules made by the ¹[State Government] under section 138 as he deems necessary.

Procedure and powers of Judge holding inquiry.

(2) Where a petition has been transferred by the District Judge to a subordinate judicial officer under the provisions of sub-section (1) for disposal, the District Judge may at any time for reasons to be recorded in writing withdraw such petition to his own file and dispose of it himself, or may transfer it to another such subordinate judicial officer for disposal.

(3) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to produce documents or articles in their possession or power and to give evidence as if he were a Civil Court, and may

¹ See foot-note 5 on page 596, *ante*

² Sections 18B, 18C, 18D, 18E, 18F, 18G, 18H and 18-I were substituted for the former section 18B, by sec. 5 of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

For application of these sections to suits and proceedings pending on the date of commencement of the said Act—See sec. 9, *ibid.*

[Ben. Act III]

(Part 1.—Local Authorities.—Chapter 1.—District Boards and Local Boards.—Section 18D.)

also direct by whom the whole or any part of the costs of such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

Act V of
1908.

(4) The Judge may, at any stage of the proceedings, require the petitioner to deposit in Court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security for the payment of the same, and if, within the time fixed by him, or within such further time as he may allow, such costs are not deposited or such further security is not furnished, as the case may be, may dismiss the petition.

Grounds
for declar-
ing election
void.

¹18D. (1) If the Judge after holding an enquiry under section 18C is satisfied that—

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) any corrupt practice specified in Part I of the Fourth Schedule has been committed, or
- (c) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in Chapter IXA of the Indian Penal Code, or by reason of any form of general intimidation, including any form of social boycott, or
- (d) the result of the election has been materially affected by any non-compliance with the provisions of this Act or the rules made thereunder or by any mistake in the use of any form prescribed for an election or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made thereunder, or
- (e) the result of the election has been materially affected by the improper acceptance or refusal of candidate's nomination,

Act XLV
of 1860.

he shall declare the election of such candidate to be void.

(2) If, after any such inquiry, the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in Part I of the Fourth Schedule which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge is also of opinion that the candidate has satisfied him that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character

¹See foot-note 2 on page 618, *ante*.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 18E—18-I.)

and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and

- (b) in all other respects the election was free from any practice on the part of such candidate or any of his agents,

then, the Judge may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-section “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object directly or indirectly, of inducing him or any other person to vote or refrain from voting or as reward for having voted or refrained from voting.

¹18E. If there is any dispute as to the validity of an election by reason of erroneous or wrongful scrutiny and counting of votes given to a candidate and the election is called in question under sub-section (1) of section 18B on that ground, the Judge shall after a scrutiny and computation of the votes recorded in favour of each candidate declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation no vote shall be reckoned as valid if it is found by the Judge that any corrupt practice was committed by any person known or unknown in giving or obtaining it.

18F. If the Judge after holding an inquiry under section 18C is satisfied that no ground exists for declaring the election to be void in the manner provided in sub-section (1) of section 18D or modifying it in the manner provided in section 18E, he shall dismiss the petition.

Dismissal of petition.

¹18G. The decision or order of the Judge under section 18D, 18E or 18F shall be final.

Decision of the Judge to be final.

¹18H. Where a candidate, who has been elected to be a member of a District Board or a Local Board, is declared by the Judge not to have been duly elected, acts done by him in execution of the duties of his office before the time when the decision is certified to the District Board or the Local Board concerned shall not be invalidated by reason of that declaration and any previous proceedings of the said local authority of which such candidate was a member shall not be deemed to be affected thereby in any respect.

Saving of acts done by a member before his election is set aside and of previous proceedings of the local authority.

¹18-I. No election of a member of a District Board or a Local Board shall be called in question in any Court except

Bar to interference by Courts in election matters.

¹See foot-note 2 on page 613, ante.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 19.)

under the procedure provided by this Act and no order passed in any proceeding under sections 18B to 18G (both inclusive) shall be called in question in any Court and no Court shall grant an injunction—

- (a) to postpone an election of a member of a District Board or a local Board, or
- (b) to prohibit any person declared to have been duly elected under this Act from taking part in the proceedings of a District Board or a Local Board of which he has been elected a member, or
- (c) to prohibit the members formally elected or appointed for a District Board or a Local Board from entering upon their duties.

Filling of
casual
vacancies.

¹19. (1) When the place of an elected member of a District Board or Local Board becomes vacant by his resignation, removal or death, ²[or by his failure to make an oath or affirmation of allegiance under section 16B, or by reason of his election ³[having been declared void under sub-section (1) of section 18D],] a new member shall be elected in accordance with the rules made by the ⁴[State Government] under the Act, to fill the place :

Provided that if, within the time prescribed by such rules, no new member is duly elected, the Commissioner may appoint a new member to fill the place ⁵[and any person so appointed shall be deemed to be a duly elected member].

(2) When the place of an appointed member of a * * * Local Board becomes vacant as aforesaid, the Commissioner may appoint a new member to fill the place.

(3) No act of any District Board or Local Board, or of its officers, shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed number.

¹Sections 19 and 19A were substituted for the original sec. 19, for Western Bengal, by Bengal Act V of 1908, sec. 10—That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²These words, figures and letters within square brackets in sec. 19(1), were inserted by sec. 16 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³These words, brackets, figures and letters were substituted for the words, figures and letter "having become void under section 18B" by sec. 4 of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

⁴See foot-note 5 on page 596, *ante*.

⁵Added by sec. 5 of the Bengal Local Self-Government (West Amendment) Act, 1947 (West Ben. Act IX of 1947).

^{*}The words "District Board or" were omitted, *ibid*.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 19A, 20A.)

¹19A. (1) A member of a * * * Local Board who has been appointed by official designation shall, subject to sections 17,²[17A,] 18 and 18A of this Act, and unless the [State Government] otherwise directs, continue to be a member of the Board while he continues to hold the office to which such designation refers.

Term of office of member of District Board or Local Board.

(2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, subject as aforesaid, hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

³(3) Except as is otherwise provided in this Act, members of District Boards and Local Boards shall hold office for a term of five years, commencing from the date of the first meeting of each Board at which a quorum is present :

Provided that the said term of five years shall be deemed to include any period which may elapse between the expiry of the said five years and the date of the first meeting of the reconstituted Board at which a quorum is present.

(4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or reappointed.

⁴19B. Notwithstanding the omission to hold timely elections in accordance with the provisions of this Act or the rules framed thereunder, sitting members of District Boards shall continue and shall be deemed always to have continued lawfully to hold office until the date of the first meeting, at which a quorum is present, of the Board as reconstituted after the coming into force of the Bengal Local Self-Government (Second Amendment) Act, 1961 and no act or proceeding of any District Board shall, in any manner, be called in question merely on the ground of such omission to hold timely elections.

Continuance in office of sitting members and validation of acts and proceedings.

20. Every District Board shall be a body corporate by the name of "the District Board of (*name of district*)," and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to any rules made by the [State Government] under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate name.

Incorporation of District Boards.

⁵20A. The District Board at a meeting may purchase or take on lease any land for the purposes of this Act, and may

Power of District Board to purchase, lease and sell lands.

¹ See foot-note 1 on pages 616, *ante*.

² The words "District Board or" were omitted by the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947).

³ The figures and letter were inserted by sec. 17 (a) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴ See foot-note 5 on page 596, *ante*.

⁵ Substituted for the former two sub-sections (3) by sec. 2 of the Bengal Local Self-Government (Second Amendment) Act, 1961 (West Ben. Act XVII of 1961) and shall be deemed always to have been substituted.

⁶ Section 19B was inserted by sec. 8, *ibid*.

⁷ Sections 20A and 20B, were inserted by sec. 18 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

[Ben. Act III]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 20AA—22.)

sell, let, exchange or otherwise dispose of any land not required for such purposes.

Power of District Board to transfer roads to the State Government on agreed terms and conditions.

¹20AA. The District Board at a meeting may transfer to the State Government—

(a) the control or administration of any road or part of a road which is under its control or administration, or

(b) any road or part of a road which is vested in it,

on such terms and conditions as may be agreed upon between the State Government and the District Board.

Explanation.—In this section the expression “road” includes a road together with bridges, culverts, causeways, sidelands, drains, berms, slopes, borrowpits and all other appurtenances whatsoever and includes also the soil of and the subsoil underneath the road and the soil of and the subsoil underneath any of the things aforementioned.

Exemption of Chairman and members of District Board from attending registration office.

²20B. Notwithstanding anything contained in the Indian Registration Act, 1908, or any rules made thereunder, the registering officer shall, on the requisition of the Chairman made in writing and under the common seal of the District Board, register a document executed by the Chairman or a member of a District Board on behalf of the District Board without requiring the presence of the Chairman or the member concerned at the registration office.

XVI of 1908.

Time for District Boards and Local Boards coming into existence.

21. The several District Boards and Local Boards constituted under this Act shall come into existence at such time as the ³[State Government] may, by notification, fix in this behalf.

Chairman of District Board.

Chairman and Vice-Chairman.

22. Every District Board shall be presided over by a Chairman, who shall be appointed by the ⁴[State Government], or, should the ⁵[State Government] in any case so direct, be elected, ⁶[either by name or by virtue of his office,] by the members of such Board from among their own number, ⁷[Subject to the approval of the ⁸[State Government] :]

⁹Provided that a Chairman elected by a District Board may, after his election, perform the duties of his office while such approval is pending.

¹Sec. 20AA was inserted by sec. 2 of the Bengal Local Self-Government (Amendment) Act, 1954 (West Ben. Act III of 1954).

²See foot-note 7 on page 617, *ante*.

³See foot-note 5 on page 596, *ante*.

⁴These words were inserted for Western Bengal by Bengal Act V of 1908, sec. 11. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁵These words were substituted for the words “subject to his approval” by sec. 19(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶This proviso was added by section 19(2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 23—25.)

23. ¹[(1)] Every District Board shall from time to time elect one of its members to be Vice-Chairman.

Vice-Chairman of District Board.

²(2) A District Board may, if it thinks fit, elect another of its members to be its second Vice-Chairman, and every such officer shall exercise and perform such powers and duties as may be delegated to him by the Chairman.

³23A. If any District Board fails to elect a Chairman or Vice-Chairman within the time prescribed by rules made by the ⁴[State Government] under this Act, the ⁴[State Government] may appoint a Chairman or Vice-Chairman, as the case may be.

Appointment of Chairman or Vice-Chairman of District Board on failure to elect.

24. *(Term of office of Chairman and Vice-Chairman of District Board.)—Rep. by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908), sec. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 3 and Sch. I.*

25. Every Local Board shall be presided over by a Chairman, who shall be elected ⁵[either by name or by virtue of his office], by the members from among their own number, subject to approval by the ⁶Commissioner; or the Local Board may, at a meeting attended by not less than two-thirds of its members, request the ⁶Commissioner to appoint a Chairman:

Chairman of Local Board.

⁷Provided that a Chairman elected by a Local Board may, after his election, perform the duties of his office while such approval is pending.

If the Local Board fails to elect such Chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by the ⁴[State Government] under this Act, or within such extended time as the ⁶Commissioner may in his discretion allow for such election, the ⁶Commissioner shall appoint such Chairman.

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¹Section 23 was re-numbered as sub-section (1) of section 23, and sub-section (2) was added to that section as so re numbered by sec. 20 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot-note 7 on page 618, *ante*.

³Section 23A was inserted for Western Bengal by Bengal Act V of 1908, sec. 12. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁴See foot-note 5 on page 596, *ante*.

⁵The words "either by name or by virtue of his office" were inserted for Western Bengal by Bengal Act V of 1908, sec. 13(a)—See also foot-note 2 above.

⁶The word "Commissioner" was substituted for the word "Lieutenant-Governor," for Western Bengal by Bengal Act V of 1908, sec. 13(b)—see also foot-note 2 above.

⁷This proviso was inserted by sec. 21 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁸The last paragraph of sec. 25 was repealed in Western Bengal by Bengal Act V of 1908, sec. 2, and is omitted—That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

[Ben. Act III]

(Part I.—Local Authorities.—Chapter IX.—District Boards and Local Boards.—Secs. 26—28.)

Vice-Chairman of Local Board.

¹26. (1) Every Local Board shall from time to time, within a period prescribed by rules made by the ²[State Government] under this Act, elect one of its members to be Vice-Chairman.

(2) If any Local Board fails to elect a Vice-Chairman within such period, the Commissioner may appoint a Vice-Chairman.

Leave of absence to Chairman or Vice-Chairman of District or Local Board.

¹26A. A District Board or Local Board may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year.

Resignation of Chairman and Vice-Chairman of District Board or Local Board.

27. A Chairman of a District Board or Local Board may resign by notifying in writing his intention to do so ³[in the case of a Chairman of a District Board to the ²(State Government), and in the case of a Chairman of a Local Board, to the Commissioner; and on such resignation being accepted by the ²(State Government) or Commissioner, as the case may be,] shall be deemed to have vacated his office.

⁴On tendering such resignation, the Chairman of a District Board shall give notice in writing of his intention to the District Board and the Chairman of a Local Board shall give similar notice to the District Board and to the Local Board.

A Vice-Chairman of District Board or Local Board may resign by notifying in writing his intention to do so to the Board; and on such resignation being accepted, shall be deemed to have vacated his office.

Removal of Chairman and Vice-Chairman of District Board or Local Board.

28. The ²[State Government] may remove any Chairman of a District Board or Local Board from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as in the opinion of the ²[State Government] formed after due inquiry, unfits him to be Chairman, or, on the application of the Board, if he persistently neglects his duty as Chairman.

¹These sections 26 and 26A were substituted for the original section 26, for Western Bengal by Bengal Act V of 1908, sec. 14—see also foot-note 7 on page 619, *ante*.

²See foot-note 5 on page 596, *ante*.

³These words within square brackets were substituted for certain original words for Western Bengal by Bengal Act V of 1908, sec. 15. See also foot-note 8 on page 619, *ante*.

⁴This paragraph in section 27 was inserted by sec. 22 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXI V of 1932).

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 29, 29A.)

A District Board or Local Board may remove its Vice-Chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Board, formed after due inquiry, unfits him to be a Vice-Chairman, or if he persistently neglects his duty as Vice-Chairman.

¹29. (1) If a Chairman of a District Board dies, resigns, is removed, or avails himself of leave granted under section 26A, the ²[State Government] may appoint a new Chairman, or may direct that, within a period prescribed by rules made by the ²[State Government] under this Act, a new Chairman be elected by the members of the Board from among their own number, ²[subject to the approval of the ²(State Government).]

Casual vacancies in office of Chairman or of Vice-Chairman of District or Local Board.

(2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed, or avails himself of leave granted under section 26A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the ²[State Government] under this Act, elect from among its members a new Chairman, or Vice-Chairman, as the case may be.

(3) If any District Board or Local Board fails to elect a new Chairman or Vice-Chairman within the prescribed period, the ²[State Government] (in the case of a District Board) or the Commissioner (in the case of a Local Board) may appoint a new Chairman or Vice-Chairman, as the case may be.

⁴(4) When the office of Chairman of a District Board or Local Board becomes vacant under this section, the Vice-Chairman of the Board shall exercise the functions of the Chairman, until the new incumbent of the post assumes office.

¹29A. (1) The term of office of an elected Chairman or Vice-Chairman of a District Board or Local Board, or of an appointed Vice-Chairman of a District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board.

Term of office of Chairman and Vice-Chairman.

(2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be re-appointed on the expiration of that term.

¹These Sections 29 and 29A were substituted for the original section 29 for Western Bengal by Bengal Act V of 1908, sec. 16. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²See foot-note 5 on page 596, *ante*.

³These words within square brackets were substituted for the words "subject to his approval" by sec. 23(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben Act XXIV of 1932).

⁴This sub-section (4) was added by sec. 23(2), *ibid*.

[Ben. Act III]**(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 29AA—30.)**

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the term of office of a Chairman or Vice-Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.

(4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office.

Vacation
of office by
Chairman
and Vice-
Chairman.

¹29AA. Notwithstanding anything contained in sections 27, 28 or 29A, on the expiry of the term of office of a District Board or Local Board, the Chairman and Vice-Chairman of such Board shall be deemed to have vacated their office at the first meeting of the members of the Board newly elected ²[in the case of a District Board and newly elected and appointed in the case of a Local Board] at which a quorum is present :

Provided that if a Chairman and Vice-Chairman are not elected at such first meeting, such vacation of office shall not be deemed to take effect until the next meeting of the newly created Board.

Power to
State
Govern-
ment to
control
appoint-
ments
made by
Commis-
sioner
under
preceding
sections of
this
chapter.
Joint
Commit-
tees.

³29B. Notwithstanding anything contained in any of the foregoing provisions of this chapter, every appointment to any District or Local Board, as the case may be, made thereunder by the Commissioner, shall be subject to the administrative control of the ⁴[State Government].

Joint Committees.

30. ⁵[(1)] A District Board may join with any other District Board or with any Municipal⁶ or Cantonment⁷ authority, or with more than one such Board, or Municipal or Cantonment authority, in constituting out of their respective bodies a Joint Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Committee any power which might be exercised by either or any of the Boards or authorities concerned, and may from time to time frame rules as to the

¹This section 29AA was inserted by sec. 24 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²Substituted by sec. 7 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947) for the words "and appointed".

³Section 29B was inserted by sec. 5 and Sch. III of Bengal Act I of 1914.

⁴See foot-note 5 on page 596, *ante*.

⁵Section 30 was re-numbered as sub-section (1) of section 30, by sec. 25 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶As to Municipal authorities—see the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

⁷As to Cantonment authorities—see the Cantonments Act, 1924 (II of 1924).

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 30A—31.)

proceedings of any such Joint Committee, and as to the conduct of correspondence relating to the purpose for which the Joint Committee is constituted¹.

²(2) The names of the members of every Joint Committee constituted under this section shall be published by the ³[State Government] by notification.

Conduct of business.

⁴30A. A District Board shall meet once in every month for the transaction of business at its office or, if unavoidable circumstances necessitate it, at some other convenient place, unless in the opinion of the Chairman there is not sufficient business to be transacted, provided that there shall be not less than nine meetings every year at intervals of not more than six weeks, and shall also meet as often as a meeting shall be called by the Chairman, or in his absence, by the Vice-Chairman.

Ordinary
meetings
of District
Board.

If there is not sufficient business to be laid before the Board at any such meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each member of the Board ten days before the date which is appointed for the meeting.

⁴30B. The Chairman, or, in his absence, the Vice-Chairman, shall call a special meeting of a District Board on a requisition signed by not less than one-third of the members of the Board.

Special
meetings
of District
Board.

If the Chairman or the Vice-Chairman fails to call a special meeting within six weeks after any such requisition has been made, the meeting may be called by the persons who signed the requisition.

31. Minutes of the proceedings at each meeting of a District Board or Local Board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the Chairman of the meeting, and shall be published in such manner as the ⁵[State Government] may from time to time direct, and shall at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within the jurisdiction of such Board.

Record
and pub-
lication of
proceed-
ings.

¹For a similar section applying to District Boards—see sec. 87 of the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

²This sub-section (2) was added by sec. 25 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³See foot-note 5 on page 596, *ante*.

⁴These sections 30A and 30B were inserted by sec. 26 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

[Ben. Act III]**(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 31A—32.)**

Resolutions passed by District Board or Local Board how to be treated.

A copy of every resolution passed by a District Board at a meeting shall, within ¹[seven days] from the date of the meeting, be forwarded to the Magistrate of the district for transmission to the Commissioner.

A copy of every resolution passed by a Local Board at a meeting shall, within ¹[seven days] from the date of the meeting, be forwarded to the District Board and to the Magistrate of the District.

Powers of Chairman.

²31A. Subject to the provisions of any rules made under section 32, the Chairman of a District Board or Local Board shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the District Board or Local Board :

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the District Board or Local Board at a meeting, or exercise any power which is directed to be exercised by such Board at a meeting.

Chairman may delegate his duties or powers to Vice-Chairman.

²31B. The Chairman of a District Board or Local Board may by a written order, delegate to the Vice-Chairman of such Board all or any of his powers or duties as Chairman as defined in this Act, subject to such restriction as may seem fit to him, and may at any time by a written order withdraw or modify the same :

Provided that nothing done by the Vice-Chairman which might have been done under the authority of a written order from the Chairman, shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the Chairman previously or subsequently obtained.

Inspection by members of District Board or Local Board of books of the Board.

²31C. A member of a District Board or a Local Board shall have the right to inspect all books of the Board at such times as the Board may fix for the purpose :

Provided that the Chairman may, for reasons to be recorded by him in writing, direct that any particular book shall not be inspected without the direction of the Board at a meeting.

Power to make rules as to business and affairs.

32. ³[Any District Board, with the sanction of the Commissioner, and subject to the control of the ⁴(State Government), and any Local Board, with the sanction of the District

¹These words were substituted for the words "three days" by sec. 27 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²Sections 31A, 31B and 31C were inserted by section 28, *ibid.*

³These words within square brackets in sec. 32 were substituted for the words "Every District Board and every Local Board with the sanction of the District Board," for Western Bengal by Bengal Act V of 1908, sec 17(a). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec 8 and Sch. I.

⁴See foot-note 5 on page 596, *ante*.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 33.)

Board and of the Commissioner and subject to the control of the ¹[State Government] may from time to time make rules as to—

- (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given ;
- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings ;
- (c) the custody of the common seal, and the purposes for which it shall be used ;
- (d) the division of duties amongst its members ;
- (e) the powers to be exercised by the Chairman or Vice-Chairman, or by sub-committees or members to whom particular duties are assigned ;
- (f) the persons by whom receipts shall be granted for money received under this Act ;
- ²(g) the duties, appointment, salaries, acting allowances, leave, leave allowances, travelling allowances, and punishment (including suspension and removal) of the officers and servants of the Board ; and
- (h) other similar matters ;

and may ³[with the like sanction and subject to the like control] from time to time repeal or alter such rules.

⁴All rules made under this section, and all orders repealing or altering any such rule shall be published in such manner as the ¹[State Government] may direct ; and so far as they are consistent with this Act and with any rules made by the ¹[State Government] hereunder, shall, upon such publication, have the force of law.

Establishments.

33. ⁵[1] Every District Board may, subject to the provisions hereinafter contained, appoint, for such periods respectively as it thinks fit, an Executive Officer, a Secretary and such other officers and servants as may be required by it, or by a Joint Committee

District Board may appoint establishments and fix salaries.

¹See foot-note 5 on page 596, *ante*.

²This clause (g) was substituted for the original clause (g) by sec. 29 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³These words were inserted for Western Bengal by Bengal Act V of 1908, sec. 17(c). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴This paragraph was substituted for the original paragraph for Western Bengal, by Bengal Act V of 1908, sec. 17(d)—see also foot-note 3 above.

⁵This paragraph was first substituted for the original paragraph by sec. 30(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932), and was then renumbered as sub-section (1) of section 33 by section 30(4), *ibid*.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Section 33.)

constituted under section 30, or by an Education Committee referred to in section 65B, and may fix the salaries to be paid to the persons so appointed :

Provided—

(1) that no appointment, the monthly salary of which amounts to ¹[two hundred] rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner ;

²(1a) that in every case of the dismissal of an officer drawing a monthly salary of fifty rupees or more, but less than one hundred rupees, the officer concerned shall have a right of appeal to the Commissioner, and in every case of the dismissal of an officer drawing a monthly salary of one hundred rupees or more the officer concerned shall have a right of appeal to the ³[State Government], in accordance with rules made in this behalf under section 138 ;

(2) that the aggregate salaries and allowances in any one financial year of the establishment employed by any District Board for the purpose of heading D of Part III of this Act shall not, without the sanction of the ³[State Government], exceed *twenty per centum* on the total amount available for expenditure by such Board upon public works during the financial year ;

(3) that every District Board shall conform to any rules made by the ³[State Government] under this Act regarding the qualifications of candidates for employment.

⁴(2) Every Executive Officer, Secretary, Health Officer and District Engineer of a District Board, and every other officer of a District Board except such officers as may by the conditions of their service be specifically exempted from the operation of this sub-section, shall devote his whole time and attention to the duties of his office and shall not engage in any other profession, trade or business whatever.

¹These words were substituted for the words "one hundred" by sec. 80(2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²This clause (1a) was inserted by sec. 30(3), *ibid.*

³See foot-note 5 on page 596, *ante*.

⁴These sub-sections (2) and (3) were added by sec. 80(4) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Sections 34—35A.)

¹(3) Any District Engineer, Health Officer or other officer may, with his consent and subject to an arrangement in this behalf between the two District Boards concerned, be transferred from the District Board under which he is serving to another District Board, provided that an officer so transferred shall retain all his rights in respect of any leave earned by him and provident fund moneys accruing to him through service under the Board from which he is transferred.

34. (*Rules regarding leave of absence and absentee allowances to officers.*)—*Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908), sec. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 3 and Sch. I.*

²35. A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the ³[State Government] make rules for pensions and gratuities to be granted and paid out of the District Fund to its establishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employees ⁴[or to employees who have been disabled or crippled by accidents in the course of employment and in the case of the accidental death of an employee in the course of his employment, for the grant and payment therefrom to his heir or next of kin of any gratuity which would have been payable to such employee had he survived] ; and may, with the like sanction, and subject to the like control, repeal, add to, or alter such rules.

Pensions and gratuities to be paid out of the District Fund.

⁵35A. A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the ⁶[State Government], make rules—

Provident Fund.

(a) for the creation and management of a Provident Fund for its several establishments ;

(b) for compelling members of its establishments to make contributions to such Fund ;

⁶(c) for making supplementary contributions to such provident fund at such rates and subject to such conditions as may be specified, such contributions to be payable either out of the District Fund or out of a Special Fund which may, if it thinks fit, be formed by the District Board for this purpose ; and

¹See foot-note 4 on page 626, *ante*.

²Substituted for the original section 35, for Western Bengal, by Bengal Act V of 1908, sec. 19. That Act was extended to Eastern Bengal, by Bengal Act I of 1914, sec. 3 and Sch. I.

³See foot-note 5 on page 596, *ante*.

⁴These words were inserted by sec. 31 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵Section 35A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 20—see also foot-note 2 above.

⁶This clause (c) was substituted for the original clause (c) by sec. 32 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

[Ben. Act III

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Chapter IA.—Abolition of Local Boards.—Sections 36—36B.)

(d) for the payment of moneys out of such Provident Fund ; and may, with the like sanction and subject to the like control, repeal, add to, or alter such rules.

Union
Committee
may
appoint
establish-
ment and
fix salaries.

¹36. Every Union Committee may from time to time determine and appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment :

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of ²[the District Board].

³CHAPTER IA.

³ABOLITION OF LOCAL BOARDS.

Power of
State
Govern-
ment to
abolish
Local
Boards.

³36A. Notwithstanding anything contained elsewhere in this Act, the ⁴[State Government], * * * * may, by notification, abolish any Local Board with effect from a date to be specified in the notification.

Members
of District
Boards
elected by
Local
Boards to
continue
in office
after aboli-
tion of
Local
Boards.

³36B. When a Local Board is abolished under section 36A, the members of the Local Board shall vacate their offices as such members with effect from the date of the abolition of the Board, but, notwithstanding anything contained in this Act, all members of the District Board elected by such Local Board shall continue to hold their offices as members of the District Board as if the Local Board had not been abolished.

¹Sections 36 and 37 to 44 (Chapter II of Part I) are repealed in areas in which Bengal Act V of 1919 is in force—see item No. 9 of Sch. I to that Act.

²The words "the District Board" were substituted for the words "the Local Board to which the Union Committee creating such appointment is subordinate", for Western Bengal, by Bengal Act V of 1908, sec. 21. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. 1.

³Chapter IA (sections 36A to 36F) were inserted by sec. 8 of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936),

⁴See foot-note 5 on page, 596 *ante*.

⁵The words "with the consent of the District Board," were omitted by sec. 2 of the Bengal Local Self-Government (Amendment) Act, 1948 (Bengal Act III of 1948).

of 1885.]

(Part I.—Local Authorities.—Chapter IA.—Abolition of Local Boards.—Sections 36C—36E.)

¹36C. When a Local Board is abolished under section 36A—

Consequences of abolition.

- (a) all powers and duties of the Local Board shall be exercised and performed by the District Board ;
- (b) all funds at the disposal of the Local Boards shall be transferred to the District Fund ;
- (c) all rights and liabilities of the Local Board shall be transferred to the District Board.

¹36D. (1) After the abolition of a Local Board under section 36A, ²* * * ³* * * ⁴[such proportion of the members of the District Board as the ⁵[State Government] may, from time to time, direct] shall be elected by persons, entitled to vote under section 36E in the area which was under the authority of the Local Board at the time of its abolition :

Election of members of District Boards.

⁶Provided that in any district when all the Local Boards have been abolished under section 36A, the members of the District Board shall be elected under the provisions of the fourth paragraph of section 7 and the rules referred to therein by persons entitled to vote under section 7A as if no Local Board has been established in the said district.

(2) Such elections shall be held within such time and in accordance with such rules as may be prescribed in this behalf by the ⁵[State Government] under clause (a) of section 138.

¹36E. (1) After the abolition of a Local Board under section 36A, every ⁷* person of the full age of twenty-one years, and having a place of residence within the area, which was under the authority of the Local Board at the time of its abolition shall, subject to the provisions of section 15A, be qualified to vote at an election referred to in section 36D if such person—

Qualifications of voters of District Boards.

(i) has, during such period of twelve months as may be prescribed by rules made under section 138, paid a sum

¹See footnote 3 on page 628, *ante*.

²The words "such proportion of" were omitted by sec. 8 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947).

³The words "as the provincial Government may, from time to time, direct" were omitted, *ibid*.

⁴Substituted by sec. 4 of the West Bengal Local Self-Government (Amendment) Act, 1949 (West Ben. Act VII of 1949) for the words "the members of the District Board".

⁵See footnote 5 on page 596, *ante*.

⁶Added by sec. 4 of the West Bengal Local Self-Government (Amendment) Act, 1949 (West Ben. Act VII of 1949).

⁷The word "male" was omitted by sec. 8 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act XXVII of 1950).

[Ben. Act III]

(Part I.—Local Authorities.—Chapter IA.—Abolition of Local Boards.—Section 36F.)

of not less than eight annas as cess under the Cess Act, 1880, in respect of lands situated wholly or in part in such area, or

Ben. Act
IX of
1880.

(ii) has, during the period aforesaid, been assessed at and paid a sum of not less than six annas for the purpose of the union rate payable under the Bengal Village Self-Government Act, 1919, or as chaukidari-tax, or

Ben. Act
V of 1919.

(iii) is a member of a joint undivided family, which during the period aforesaid, has paid a sum of not less than eight annas as such cess or than six annas as such rate or tax, or

(iv) is a graduate or licentiate of any university, or has passed the matriculation examination of the Calcutta University, or a corresponding standard of the same or any other university, or the high school examination of the Board of Intermediate and Secondary Education, Dacca, or the senior or junior madrasah examination under the old or the reformed scheme, or the sanskrit title examination of the Calcutta Sanskrit Association, or the middle English or the middle vernacular examination, or is a registered medical practitioner under the Bengal Medical Act, 1914, or holds a certificate authorising him to practise as a pleader or as a *muktear* or as a revenue agent :

Ben. Act
VI of 1914.

Provided that only one member of a joint undivided family qualified under clause (iii) and nominated by the other qualified members of that family shall be entitled to vote on its behalf at any such election.

(2) A person qualified under sub-section (1) shall be entitled to vote at such election if his name is included in the electoral roll prepared for the purpose of election of members of the District Board in respect of the said area, but not otherwise.

¹36F. A person shall not be qualified for election as a member of a District Board under section 36D unless his name is included in an electoral roll prepared—

Qualifica-
tions of
election
as a
member of
a District
Board.

(a) for the purpose of election of members of the said District Board, or

(b) for the purpose of election of members of a Local Board in the district.

¹See foot-note 8 on page 628, ante.

of 1885.]

(Part I.—Local Authorities.—Chapter II.—Union Committees.—
Sections 37—41.)

¹CHAPTER II.

¹UNION COMMITTEES.

¹37. No provision contained in this chapter shall apply to any district, or part of a district, unless and until it has been expressly extended thereto by notification by the ²[State Government].

Operation
of chapter.

¹38. The ²[State Government] may, by order in writing, constitute any village or group of villages into a Union; and may prescribe for such Union the number of members of which the Union Committee shall consist.

Formation
of Unions.

Such number shall not be less than five or more than nine.

It shall be lawful for the ²[State Government] from time to time to vary or annul such order.

¹39. Save as is hereinafter provided, such number shall be elected from among the residents of the Union, in accordance with rules made by the ²[State Government] under this Act, and shall constitute the Union Committee of such Union.

Election of
members
of Union
Com-
mittees.

¹40. If the electors of any Union fail to elect the full number of members prescribed for the committee of such Union, the Commissioner may appoint the remainder,

Appoint-
ment on
failure to
elect.

¹41. Notwithstanding anything in this Act contained, it shall be lawful for the ²[State Government] to direct, by order in writing, for reasons to be stated in such order,

Appoint-
ment in
substitu-
tion of
election.

¹ See foot-note 1 on page 628, *ante*.

² See foot-note 5 on page 596, *ante*.

*(Part I.—Local Authorities.—Chapter II.—Union Committees.—
Sections 41A—43.)*

that any Union Committee shall consist, either wholly or in part, of members appointed by the Commissioner.

Chairman
of Union
Committee.

¹41A. (1) Every Union Committee shall, from time to time, elect one of its members to be Chairman of the Committee.

(2) The election of any person to be Chairman of a Union Committee shall be subject to the approval of the District Board.

(3) If a Chairman of a Union Committee be not elected within the period prescribed in this behalf by rule made under clause (c) of section 138 of this Act, the District Board shall appoint a member of the Committee to be Chairman.

Term of
office of
members.

²42. The term of office of the members of a Union Committee shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

At the expiration of such term such members may be re-elected or re-appointed.

Filling of
casual
vacancies.

³43. When the place of an elected or appointed member of Union Committee becomes vacant by the resignation or death of such member, a new member shall be elected or appointed, in the manner hereinbefore provided, and shall

¹Section 41A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 22. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

²See foot-note 1 on page 628, *ante*.

of 1885.]

*(Part I.—Local Authorities.—Chapter II.—Union Committees.—
Section 44.)*

hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed :

Provided that no act of the Committee or of its officers, or of the Committee in meeting, shall be deemed to be invalid by reason only that the number of the Committee at the time of the performance of such act was less than the prescribed number.

¹44. Any Union Committee may from time to time, with the consent of ²[the District Board], join with any other Union Committee or Committees in constituting out of their respective bodies a Joint Union Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Union Committee any power which might be exercised by either or any of the Union Committees ; and may from time to time frame rules as to the proceedings of any such Joint Committee and as to the conduct of correspondence relating to the purpose for which the Joint Union Committee is constituted.

Joint
Union
Com-
mittees.

It shall be lawful for ³[the District Board] to associate not more than two of its members with any Joint Union Committee constituted under this section.

¹See foot-note 1 on page 628, *ante*.

²These words were substituted for the words "the Local Board to which it is subordinate, as hereinafter provided," for Western Bengal, by Bengal Act V of 1908, sec. 28. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

³These words were substituted for the words "the Local Board," for Western Bengal, by Bengal Act V of 1908, sec. 28. See also foot-note 2 above.

[Ben. Act III]

(Part II.—Finance.—General.—Chapter I.—Sections 45—47.)

PART II.—FINANCE.

GENERAL.

State Government may direct that funds of existing local bodies shall be vested in new local authorities.

45. The ¹[State Government] may, by notification, direct that all or any portion of the funds vested in any local body existing in ²[any district in which this Act is in force] shall be vested in any local authority constituted under this Act immediately upon such local authority being constituted.

CHAPTER I.

District Board to fix rate of road cess annually.

46. A District Board, on or before the day prescribed in the rules made by the ¹[State Government] under this Act, shall hold a meeting for the purpose of fixing the rate at which the road cess³ shall be levied in the district during the ensuing cess year ;

Provided that the rate at which the road cess is levied when this Act comes into force in such district shall not be reduced without the sanction of the ¹[State Government] :

⁴Provided further that this section shall not apply to a district in respect of which a valuation or revaluation has been made under Chapter VII-A of the Cess Act, 1880, nor shall a rate be fixed under this section in respect of any land which has been so valued or revalued.

Ben. Act
IX of
1880.

Estimates, reports and statements of District Board to be submitted to Commissioner.

47. Every District Board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the ¹[State Government] under this Act,—

- (1) a statement of the requirements and an estimate of the probable expenditure of the District Board for the ensuing financial year,
- (2) a report of its proceedings,
- (3) an account of its receipts and expenditure for the past financial year, and from time to time, such other reports and accounts as the Commissioner may require.

¹See foot-note 5 on page 596, *ante*.

²These words were substituted for the words "such district" by sec. 3 and Sch. II of the Amending Act, 1903 (I of 1903).

³As to the road cess—see the Cess Act, 1880 (Ben. Act IX of 1880).

⁴This proviso was added by sec. 14 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1885.]

(Part II.—Finance.—Chapter I.—Sections 48, 49.)

The Magistrate of the district, when he is not Chairman of the Board, shall, on or before the day prescribed in the rules made by the ¹[State Government] under this Act, signify in writing to the Board his approval or disapproval of the statement of requirements and estimate.

When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection.

The Board shall then consider his objection and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate ; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

48. The Commissioner may either approve of the estimate as it stands, or approve of it after making such alterations therein as may seem to him fit, or may cause it to be returned to the Board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner :

Power of Commissioner as to estimates.

Provided that the Commissioner shall not make, and shall not require the District Board to make otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the District Board for expenditure during the financial year.

²*Explanation.*—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47.

49. ³[(1)] Any estimate prepared and approved as hereinbefore provided may, with the approval of the Commissioner, be amended or revised at any time by the District Board.

Estimates may be amended or revised.

⁴(2) Every resolution passed by a District Board without the assent of the Chairman in regard to matters concerning expenditure not covered by a current budget grant shall be submitted to the Commissioner for approval.

¹See foot-note 5 on page 596, *ante*.

²This *Explanation* was added to sec. 48, for Western Bengal, by Bengal Act V of 1905, sec 24. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³Section 49 was renumbered as sub-section (1) of section 49 and to this section as so renumbered, sub-section (2) was added by sec. 33 of the Bengal Local Self-Government (Amendment) Act, 1933 (Ben. Act XXIV of 1932).

[Ben. Act III]**(Part II.—Finance.—Chapter I.—Chapter II.—The District Fund.—Sections 50—52.)**

District
Boards
may raise
loans and
may form
a sinking
fund.

50. It shall be lawful for a district Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund :

¹[Provided that no loan shall be raised for the purpose of constructing and maintaining a railway or tramway under the provisions of section 80, unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.]

Estimates
and audit
of accounts
of Local
Boards.

51. Every Local Board shall submit to the District Board annually, on or before such date as the District Board may appoint, a statement of the requirements and an estimate of the probable expenditure of the Local Board for the ensuing financial year, and shall submit, as often as the District Board may require, accounts of its receipts and expenditure.

The District Board may approve such estimate or may make such alterations therein as it thinks fit.

The District Board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section and may direct the publication of such accounts.

CHAPTER II.**THE DISTRICT FUND.**

Constitu-
tion of
District
Fund.

52. There shall be formed for each district a fund to be called the "District Fund", and there shall be placed to the credit thereof—

²(1) the proceeds of the local road ³[cess], after payment of the expenses mentioned in section 109 of the Cess Act, 1880, as amended by this Act ;

⁴(*alia*) the receipts, if any, from the transfer of any road or part of a road referred to in section 20AA ;

Ben. Act
IX of
1880.

¹This proviso was added to sec. 50, for Western Bengal, by Bengal Act V of 1908, sec. 25. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

²This clause (1) was substituted for the original clause (1) by sec. 84 (2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³This word was substituted for the words "and public works cesses" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴Inserted by sec. 8 of the Bengal Local Self-Government (Amendment) Act, 1954 (West Ben. Act III of 1954).

of 1885.]

(Part II.—Finance.—Chapter II.—The District Fund.—
Section 52.)

¹(1a) all sums received under any loan raised under section 50;

²(2) all sums levied within the district under this Act otherwise than as fines or penalties ;

(5) all receipts in respect of any schools, hospitals, dispensaries, railways, tramways or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of a District Board under Part III of this Act ;

⁴(5a) all receipts accruing within the district from tolls or leases under Part III, heading D(1), of this Act ;

(6) all sums which may be allotted to the District Board from the State⁵ revenues by the ⁶[State Government] for any of the purposes mentioned in Part III of this Act, or for any other purpose ;

(7) all sum contributed to the District Board by local bodies, ⁷companies or private persons.

⁸[The proceeds of the local road and public works cesses mentioned in clause (1) shall be placed to the credit of the District Fund under such separate heads as the ⁹[State Government] may from time to time determine.]

The District Fund shall be vested in the District Board and the balance standing to the credit of the fund shall be kept in such custody as the ⁶[State Government] from time to time directs.

District
Fund to be
vested in
Board.

¹Clause (1a) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 26 (1). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²Clause (2) was substituted for the original clause by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Clauses (3), (3a), (3b) and (4) were omitted, *ibid.*

⁴Clause (5a) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 26(3). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁵See foot-note 8 on page 600, *ante*.

⁶See foot-note 5 on page 596, *ante*.

⁷The word "companies" in section 52(7) was inserted by sec. 34(c) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁸This paragraph was substituted for the original paragraph by section 84(d), *ibid.*

(Part II.—Finance.—Chapter II.—The District Fund.—
Section 53.)Applica-
tion of
District
Fund.

53. The District Fund shall ¹[subject to the provisions of section 109 of the Cess Act, 1880, as amended by this Act,] be applicable to the following objects, and in the following order :—

Ben. Act
IX of
1880.

Firstly.—To the payment of any sums which the District Board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, and to the formation of sinking fund, when required.

Secondly.—To the payment of any sums which the District Board may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between such district and other districts.

Thirdly.—To the payment of such percentage as the ²[State Government] may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any treasury :

Provided that the total amount which any District Board may be required to pay on this account shall not in any year exceed two *per centum* on the whole amount of the District Fund for such year.

Fourthly.—To the payment of the salaries ³[acting allowances, leave allowances and travelling allowances] of the establishments employed by the District Board for the purposes of this Act, and of any pensions and gratuities granted under section 3 and section 35, ⁴[and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 35A], and to the payment ⁵[to the State Government] of such percentage as the ⁶[State Government] may from time to time on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments,

¹These words were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 27(1). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch I.

²See foot-note 5 on page 596, *ante*.

³These words in clause *Fourthly* were inserted by sec. 35(1) (a) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴These words in clause *Fourthly* were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 27(2)—see also foot-note 1 above.

⁵The words "to the Provincial Government" were first substituted for the words "to the Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1885.]

(Part II.—Finance.—Chapter II.—The District Fund.—Sec. 53.)

¹[and to the payment of the daily halting allowances referred to in section 55 to the members of the Finance Committee when engaged in audit work ;].

²*Fifthly*.—To the payment of—

(a) expenses incurred by the District Board in—

(i) the construction, repair and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III of this Act ;

(ii) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or of a house and land for the residence of ³[any officer of the District Board] or the acquisition of land for, and the construction of, such offices or house ; and

(iii) the performance of duties imposed, and the exercise of powers conferred by this Act ;

(b) advances granted to members of the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves ;

(c) any contribution made by the District Board under Part III of this Act ; and

⁴(d) any sums assigned by the District Board to a Local Board or Union Committee under this Act.

⁵(d) any sums assigned by the District Board to a Local Board or to a Union Board constituted under the Bengal Village Self-Government Act, 1919.

Ben. Act
V of
1919.

Sixthly.—To the payment at such rates as the ⁶[State Government] may direct—

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¹These words in clause *Fourthly* were added by sec. 35(1) (b) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

² This clause *Fifthly* was substituted for the original clause *Fifthly*, for Western Bengal, by Bengal Act V of 1908, sec. 27 (3). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

³These words in clause *Fifthly* were substituted for the words "the District Engineer" by sec. 35(2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴Sub-clause (d) is in force in this form in areas in which Bengal Act V of 1919 is not in force.

⁵Sub-clause (d) is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 11 of Sch. I to that Act.

⁶See foot-note 5 on page 596, ante.

⁷Sub-clause (a) of clause *Sixthly* was repealed by sec. 35(3) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

*(Part II.—Finance.—Chapter II.—The District Fund.—
Sec. 53.)*

- ¹(b) of travelling expenses incurred by members of the District Board or any Local Board in attending meetings of the District Board or Local Board or meetings of a Committee or Joint Committee; and
- ¹(c) in such cases, if any, as the ²[State Government] may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act; *³
- ³(c1) of daily halting allowances to members of District Boards and Local Boards in carrying out any of the objects of this Act; and
- ¹(d) of the expenses of any of the poorer inhabitants of the district for journeys to and from any hospital established in any part of ⁴[any part A State or a part C State] for the treatment of special diseases.

Seventhly.—To the payment of expenses incurred by the District Board under section 80 of this Act.

Eighthly.—To investment in any local debenture loans issued by ⁵[the Central or any State Government] or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district or between such district and other districts :

Provided—

(1) that ⁶[except as is provided in section 99A,] no sum shall be expended from the District Fund—

in the construction of any channel for the purposes of irrigation : or

for the purposes of drainage connected with any irrigation works in charge of public officers : or

¹The clauses (b), (c) and (d) were substituted for the words "of the travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee," for Western Bengal, by Bengal Act V of 1908, sec. 27 (4). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

²See foot-note 5 on page 596, *ante*.

³The word "and" at the end of sub-clause (c) of clause *Sixthly* was repealed and sub-clause (c1) was inserted by sec. 85(4) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴Substituted for the words "British India" by para. 8 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

⁵The words "the Central or any Provincial Government" were first substituted for the words "the Government of India" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶These words, figures and letter were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 27(5). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

of 1885.

(Part II.—Finance.—Chapter II.—The District Fund.—
Sections 53A, 53AA.)

for the improvement or maintenance of any water-channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the District Fund ;

- (2) that no part of the District Fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, ¹[1932], unless such road shall have been expressly excluded from the operation of the said Act under ²section 30 thereof ;

Ben. Act
XV of
1932.

- ³(3) that the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to any object other than those referred to in section 109 of the Cess Act, 1880, as amended by this Act, shall be subject to such rules as the ⁴[State Government] may prescribe.

Ben. Act
IX of
1880.

⁵53A. If any deviation from the provisions of this Act, or of any rule made hereunder, or of section 109 of the Cess Act, 1880, as amended by this Act, relating to the crediting or application of the balance of the District Road Fund mentioned in clause (1) of section 52 of this Act, is shown to the satisfaction of the ⁴[State Government] to have been of temporary duration or of an accidental character, ⁶[it] may cause a declaration to be made to that effect ;

Temporary or accidental deviations from provisions relating to crediting or application of District Road Fund.

and such deviation shall thereupon be deemed to be valid, notwithstanding any of the provisions hereinbefore referred to.

⁷53AA. (1) In any district to which the ⁴[State Government] may, by notification, direct that this section shall apply, the District Board shall defray the cost of works of a capital nature from loans raised for the purpose under section 50 ; and the ⁴[State Government] may make rules under section 138 to determine the class of capital works to which this provision shall be applicable and for the maintenance of accounts relating to the loans fund.

Capital cost of works in certain cases to be defrayed from loans.

¹ See foot-note 4 on page 596, *ante*.

² *Sic*, read sub-section (2) of section 95.

³ Proviso (3) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 27 (6) *ibid*. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁴ See foot-note 5 on page 596, *ante*.

⁵ Section 53A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 28—see also foot-note 3 above.

⁶ This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷ This section 53AA was inserted by sec. 36 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

(Part II.—Finance.—Chapter II.—The District Fund.—
Secs. 54, 55.)

(2) When any sum of money has been borrowed for the purpose of defraying the capital cost of a particular work, no portion thereof shall, without the previous sanction of the ¹[State Government], be applied to any other purpose.

Accounts
of District
Fund how
to be kept
and
published.

54. Account-books of the District Fund shall be kept by an officer to be appointed by the District Board.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the ¹[State Government] directs, and any person resident in or owning or holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the District Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Finance
Committee.

55. Every District Board shall appoint a Finance Committee consisting of ²[not more than nine members.]

Its duties.

It shall be the duty of such Committee to prepare the statements, estimates and accounts required for submission under section 47, and generally to superintend all matters connected with the finances and accounts of the District Board.

³[The officer appointed under section 54 to keep the accounts of the District Fund] shall at all times, when required so to do, produce ⁴[the accounts of the Finance Committee] for audit by any officer who may be appointed by the ¹[State Government] in that behalf.

⁵[The members of the Finance Committee may, when engaged in such audit work, be paid daily halting allowances at such rates and subject to such conditions as may be prescribed by rules made under section 138.]

¹See footnote 5 on page 596, *ante*.

²These words were substituted for the words "so many members as it thinks fit" by sec. 37(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³The words and figures "the officer appointed under section 54 to keep the accounts of the District Fund" were first substituted for the words "Finance Committee" by sec. 37(2), *ibid.* Thereafter, the words "The officer" were substituted for the words "The the officer" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben Act I of 1939).

⁴These words were substituted for the words "its accounts" by sec. 37(2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵This paragraph was added by sec. 37(3), *ibid.*

(Part II.—Finance.—Chapter III.—The Union Fund.—
Secs. 56, 57.)

¹CHAPTER III.

¹THE UNION FUND.

¹56. There shall be formed for each Union a fund to be called the "Union Fund," and there shall be placed to the credit thereof—

Constitution of
Union
Fund.

(2) all sums assigned thereto by the ²[State Government] or District Board, whether as a contribution towards the cost of making village-roads or otherwise ;

(3) all other sums received by the Union Committee in the execution of this Act.

The Union Fund shall be vested in the Union Committee and the balance standing to the credit of the Fund shall be kept in such custody as the ²[State Government] from time to time directs.

Union
Fund to be
vested
in Union
Committee.

¹57. The Union Fund shall be applicable to the following objects, and in the following order :—

Applica-
tion of
Union
Fund.

(1) to the payment of establishments employed, and expenses incurred by the Union Committee for the purposes of this Act ;

¹Sections 56 to 58 (Chapter III of part II) are repealed in areas in which Bengal Act V of 1919 is in force—see item No. 12 of Sch. I to that Act.

²Clause (1) was omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³See foot-note 5 on page 596, *ante*.

*(Part II.—Finance.—Chapter III.—The Union Fund.—
Sec. 58.)*

- (2) to the payment of the expenses incurred by the Union Committee in respect of the duties imposed, and powers conferred, upon it under Part III of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.

Accounts
of Union
Fund
how to be
kept and
published.

¹58. Account-books of the Union Fund shall be kept by an officer to be appointed by the Union Committee.

An account showing the receipt and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the ²[State Government] directs, and any person resident in or owning or holding land in the Union may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the Union Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the Fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

¹ See foot-note 1 on page 643, *ante*.

² See foot-note 5 on page 596, *ante*.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.
—Duties and Powers of District Boards.—Secs. 59—61.)

Copies of the quarterly and yearly accounts shall be submitted to ¹[the District Board.]

PART III.—Duties and Powers of Local Authorities.

CHAPTER I.

DUTIES AND POWERS OF DISTRICT BOARDS.

59. The provisions included under the headings A to E² (both inclusive) of this chapter shall be in force as regards every District Board, unless and until the ³[State Government] shall otherwise direct.

Operation of provisions included under headings A to E.

60. No provision included under the headings ⁴F to I (both inclusive) of this chapter shall apply to any District Board, unless and until it has been expressly extended thereto by notification by the ³[State Government]

Operation of provisions included under headings F to I.

A.—Pounds.

⁵61. Every District Board shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871.

Powers of District Boards in respect of pounds.

I of 1871.

¹These words were substituted for the words "the Local Board to which such Union Committee is subordinate," for Western Bengal by Bengal Act V of 1908, sec. 80. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²This letter "E" was substituted for the letter "D" for Western Bengal by Bengal Act V of 1908, sec. 81. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³See foot-note 5 on page 596, *ante*.

⁴This letter "F" in sec. 60 was substituted for the letter "E" for Western Bengal, by Bengal Act V of 1908, sec. 82. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁵Substituted for the original section for Western Bengal, by Bengal Act V of 1908, sec. 83—see also foot-note 1, above.

[Ben. Act III

(Part III.—Duties and Powers of Local Authorities.—Chapter I.
—Duties and Powers of District Boards.—Secs. 62, 63.)

B.—Education.

Primary
and
middle
English
schools
under
public
manage-
ment.

¹62. Subject to any rules made by the ²[State Government] under this Act, every District Board shall be charged with, and be responsible for the maintenance and management of all ³[primary and] ⁴[middle English schools, including junior madrasahs] under public management within the district, the construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters, thereof, and the payment of the salaries of such masters and assistant masters :

⁵62. Subject to any rule made by the ²[State Government] under this Act, *and to the provisions of the Bengal Village Self-Government Act, 1919*, every District Board shall be charged with, and be responsible for the maintenance and management of all ³[primary and] ⁴[middle English schools, including junior madrasahs] under public management within the district, the construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters :

Primary
and
middle
English
schools
under
public
manage-
ment.

Ben. Act
V of 1919.

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other
schools.

⁶63. The District Board may, subject to any rules made by the ²[State Government] under this Act,—

(a) with its own consent, be charged with, and made responsible for, the maintenance and management of any other schools or class of schools ⁷[except primary schools recognised under section 54 of the Bengal (Rural) Primary Education Act, 1930,] within the district : or

Ben. Act
VII of
1930.

¹This clause of section 62 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

²See foot-note 5 on page 596, *ante*.

³These words will be repealed when the Bengal (Rural) Primary Education Act 1930 (Ben. Act VII of 1930), comes into force.

⁴These words were substituted for the words "middle schools" by sec. 38 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵This clause of section 62 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 13 of Sch. I to that Act.

⁶This section was substituted for the original section for Western Bengal, by Bengal Act V of 1908, sec. 84. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁷These words will be inserted when the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930), comes into force.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Section 64.)*

¹[(b) make grants in aid of any schools or class or schools whether the same be under public or private management, and of any libraries maintained for the public benefit and open to the public and on the managing authority of which the District Board is represented.

Ben. Act
VII of
1930.

In any district or part of a district where primary education cess is imposed under the Bengal (Rural) Primary Education Act, 1930, the District Board, notwithstanding anything contained in this section, shall not make any direct grant in aid of any primary school recognised under section 54 of the said Act in such district or part but the District Board may subject to any rules made by the ²[State Government] under this Act contribute to the District Primary Education Fund constituted under the Bengal (Rural) Primary Education Act, 1930.]

Ben. Act
XV of
1932.

64. It shall be lawful for the ²[State Government] to declare that the maintenance and management of any high English school ³[including high madrasahs] under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, ⁴[1932], shall be entrusted to a Joint Committee, consisting partly of members delegated by the Commissioners of such municipality and partly of members delegated by such District Boards as may be named in the order.

High
English
schools.

Every order issued under this section shall specify the number of members to be delegated, and the proportion of the cost of maintenance of the school to be provided by each of the local authorities and the municipal authority named therein.

Every Joint Committee appointed under this section shall, in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on District Boards.

¹This clause (b) was substituted for the original clause (b) by sec. 39 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot-note 5 on page 596, *ante*.

³These words were inserted by sec. 40 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴See foot-note 4 on page 596, *ante*.

[Ben. Act III]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Section 64A.)*

Provision,
main-
tenance
and
manage-
ment of
students'
hostels.

¹64A. The District Board may, subject to any rules made by the ²[State Government] under this Act,—

- (a) provide buildings to be used as students' hostels in connection with schools for the maintenance and management of which the Board is responsible under section 62 or section 63, and maintain and manage such hostels, or
- (b) make grants in aid of any school referred to in section 63 or section 64, or any other school, college ³[educational institution or public library], for the purpose of providing buildings to be used as students' hostels in connection with such school, college ⁴[institution or public library] or for the purpose of maintaining and managing such hostels, ⁵[or
- (c) establish scholarships for the furtherance of technical or any other special form of education] ⁶[in secondary schools, including middle English schools and junior madrasahs and high English schools, including high madrasahs, or in any other school, college or educational institution other than primary schools :]

⁷Provided that, save with the sanction of the ⁸[State Government] no such scholarship shall be tenable at any school or institution outside India.

¹Section 64A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 35. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

²See footnote 5 on page 596, *ante*.

³These words were substituted for the words "or educational institution" by sec. 41(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴These words were substituted for the words "or institution" by sec. 41(1), *ibid*.

⁵This portion within square brackets in sec. 64A was added by sec. 5 and Sch. III of the Bengal Laws Act, 1914 (Ben. Act I of 1914).

⁶These words were inserted by sec. 41(2) of the Bengal Local Self Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932.), sec. 41(2).

⁷This proviso was substituted for the original proviso by section 41(3), *ibid*.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 65—65B.)

65. It shall be lawful for the ¹[State Government] from time to time to transfer to a District Board such funds as ²[it] may deem necessary for expenditure on—

Transfer of funds by Government to district Board.

Ben. Act
VII of
1930.

³(a) the improvement of any schools or class of schools ⁴[except primary schools recognised under section 54 of the Bengal (Rural) Primary Education Act, 1930,] within the district under private management ; or

³(b) the maintenance or improvement of any schools or class of schools maintained and managed by the District Board ; or

³(c) the provision of buildings to be used as students' hostels in connection with any school referred to in section 64, or in clause (a) or clause (b) of this section, or any other school, college or educational institution, and the maintenance and management of such hostels.

And, subject to any rules made by the ¹[State Government] under this Act, the Board shall be charged with, and be responsible for, the proper distribution of such funds.

⁵65A. The hostels referred to in sections 64A and 65 may be situated either within the area directly subject to the authority of the District Board or within any place or town lying within that area in which the Bengal Municipal Act, ⁶[1932], is for the time being in force.

Site of students' hostels.

Ben. Act
XV of
1932.

⁵65B. (1) Every District Board shall appoint, to be members of an Education Committee,—

(a) the Deputy Inspector of Schools ;

(b) three members of the District Board ; and

(c) not more than three residents of the district not being members of the District Board.

Constitution and functions of Education Committees.

(2) The appointment of any person referred to in clause (c) of sub-section (1) to be a member of an Education Committee shall be subject to the approval of the Commissioner ;

¹See foot-note 5 on page 596, *ante*.

²This word was substituted for the word "he" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Clauses (a) to (c) were substituted for the words "the improvement of primary schools within the district under private management," for Western Bengal, by Bengal Act V of 1908, sec. 36. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec 3 and Sch. I.

⁴These words were inserted by the Bengal (Rural) Primary Education Act, 1930 (Ben, Act VII of 1930).

⁵These sections 65A and 65B were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 37. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁶See foot-note 4 on page, 596, *ante*.

[Ben. Act III]

*(Part III.—Duties and Powers of Local Authorities.—Chapter 1.—
Duties and Powers of District Boards.—Secs. 66, 67.)*

and, when his appointment has been so approved, such person shall, for the purposes of sub-clause (b) of clause *Sixthly* of section 53, be deemed to be a member of the District Board.

(3) It shall be the duty of an Education Committee, subject to the control of the District Board and to any rules made by the ¹[State Government] under section 138,—

- (i) to superintend all matters connected with the finances, accounts, maintenance and management of all schools maintained by the District Board, and
- (ii) to determine the conditions to be complied with when grants are made by the District Board in aid of other schools ²[or public libraries.].

(4) Nothing in the foregoing sub-section shall apply to schools referred to in section 64.

C.—Medical.

District Board to have control and administration of public charitable dispensaries or hospitals within the district.

66. It shall be lawful for the ¹[State Government] from time to time ²[with the consent of the District Board] to direct, by notification, that any public charitable dispensary or hospital within a district shall be under the control and administration of the District Board.

And the District Board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

The ¹[State Government] may at any time vary or annul any order made under this section.

District Board may establish and maintain dispensaries and hospitals.

67. A District Board may provide, for the use of the inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—

itself build such dispensaries, hospitals or places of reception ;
or

contract for the use of any such dispensary, hospital or place of reception, or of any part thereof, or

enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

¹See foot note 5 on page 596, *ante*.

²These words were added by sec. 42 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. XXIV of 1932).

³These words were inserted by sec. 43, *ibid*.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter 1.—
Duties and Powers of District Boards.—Secs. 68—72.)*

¹[A District Board may also provide for—

- (a) the training and employment of compounders, midwives and veterinary practitioners ; and
- (b) the promotion of free vaccination.]

68. Two or more District Boards may, with the approval of the Commissioner or Commissioners, combine in providing a common dispensary, hospital or place for the reception of the sick, and, with the like approval, fix the proportions of the cost thereof to be borne by them respectively.

Two or more District Boards may combine to establish dispensaries.

69. A District Board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district.

District Board may contribute to cost of maintenance of dispensary or hospital outside district.

70. A District Board may, with the approval of the Commissioners, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district :

Power to provide temporary supply of medicine and medical assistance.

²Provided that, in a case of urgent necessity the District Board may take action under this section without such approval, but in any such case the action taken shall be reported without delay to the Commissioner for ratification.

71. Every District Board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the ³[State Government] under this Act.

District Board to conform to rules made by State Government.

72. (*District Board to submit returns of births and deaths to Magistrates.*)—Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908), sec. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 3 and Sch. I.

¹This portion within square brackets in sec. 67 was added, for Western Bengal, by Bengal Act V of 1909, sec. 38. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²This proviso was added by sec. 44 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³See foot-note 5 on page 596, ante.

[Ben. Act III**(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 73, 74.)****D.—Public Works.**

Transfer
to District
Boards of
roads and
other
property
of District
Road
Committee.

Ben Act.
IX of
1880.

¹73. From and after the establishment of a District Board in any district, all roads, bridges, channels, buildings, and other property, movable or immovable, held by, or under the control and administration of, the District Road Committee or any Branch Committee in such district for the purposes of the Cess Act, 1880, shall, for the purposes of this Act, ²*[but subject to the provisions of Chapter III of Part III thereof]* be under the control and administration of such District Board.

Transfer
to District
Boards of
roads and
other
property
of District
Road
Committee.

Ben. Act
IX of
1880.

4*

*

⁵*Explanation.*—The roads, bridges, channels, buildings and other immovable properties referred to in this section shall include and shall be deemed to have always included the soil and sub-soil beneath those properties, excluding minerals therein :

⁶Provided that such control and administration shall not affect in any way the fishery rights of any person in any channel.

Govern-
ment may
place other
property
under
District
Boards.

74. It shall be lawful for the ⁷[State Government] from time to time to direct that any road, bridge, channel, building or other property, movable or immovable, which is ⁷[vested in the State Government] and which is situated within a district shall,

¹Section 73 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

²These words were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 89. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³Section 73 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 14 of Sch. I to that Act.

⁴The proviso to section 73 was repealed, in Western Bengal, by Bengal Act V of 1908, sec. 2. See also foot-note 2 above.

⁵This *Explanation* and the proviso thereunder were added by sec. 45 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶See foot-note 5 on page 596, *ante*.

⁷The words "vested in His Majesty for the purposes of the Province" were first substituted for the words "vested in Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws), Order, 1937. Thereafter the words "the State Government" were substituted for the words "His Majesty for the purposes of the Province" by para. 3 and the Eleventh Schedule of the Adaptation of Laws Order, 1960.

of 1885].

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.
—Duties and Powers of District Boards.—Secs. 75—78.)*

with the consent of the District Board of such district, and subject to exceptions and conditions as the ¹[State Government] may make and impose, be placed under the control and administration of the District Board, for the purposes of this Act ; and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the District Board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same :

²Provided that in the case of a road which runs through a municipality but also forms an essential part of communication traversing the district as a whole, the ¹[State Government] may direct that such road shall, notwithstanding anything contained in proviso (2) to section 53, be maintained and repaired by the District Board—subject to payment by the municipality through which the road runs of such contribution towards such maintenance and repair as may, in the opinion of the ¹[State Government], be equitable having regard to its special importance to the municipality, its usefulness in providing communications through the district and the financial position of the municipality and the District Board.

75. Every road, building or other works constructed by a District Board from the District Fund shall be vested in the District Board by which it has been constructed.

Works constructed by District Board to be vested in it.

76. A District Board may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghat, well, channel or drain has been transferred to the District Board.

District Board may, with consent of owners, take over and repair works.

Thereupon the property therein shall be vested in the District Board, and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the District Fund,

77. Every District Board shall, at such times and in such form as the Commissioner may direct, submit a schedule of all public works subject to the control of, or vested in, such District Board.

District Board to submit schedules of public works.

78. It shall be the duty of every District Board to provide for the repair and maintenance of roads, bridges, water-channels and other works for directly improving communications which have been taken charge of by the District Board under this Act, or

District Board to repair and maintain works.

¹See footnote 5 on page 596, *ante*.

²This proviso was added by sec. 46 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben Act XXIV of 1932).

[Ben. Act III]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs. 78A-81.)

towards which it may have agreed to contribute ; and for the construction of new roads, water-channels and other means of communication.

Power to turn, divert, discontinue or close road.

¹78A. ²[(1)] The District Board may, with the sanction of the Commissioner, turn, divert, discontinue or permanently close any road which is under the control and administration of or is vested in, the District Board.

²(2) The District Board may temporarily close any such road to all traffic or to any particular class of traffic.

Miscellaneous improvements.

79. It shall be lawful for a District Board to take measures for, or to contribute towards—

the construction, repair, and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts ;

the planting of trees by the roadside ; and

the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage.

District Board may construct and maintain railways or tramways.

80. It shall be lawful for a District Board, with the sanction of the ³[State Government] either singly or in combination with any municipal authority or any other local authority to construct and maintain within, or partly within and partly without, its own district a railway or tramway under the provisions of any law for governing the construction of railways or tramways for the time being in force in ⁴[West Bengal] and to do all lawful acts which may be necessary in that behalf.

District Board may subscribe to debenture loan to construct and maintain railways or tramways.

81. It shall be lawful for a District Board, with the sanction of the ³[State Government] to subscribe to any debenture loan raised by the ⁵[Central Government or any State Government] or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which, in the opinion of such District Board, is likely to be of direct benefit to the district.

¹Section 78A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 40. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²Section 78A was renumbered as sub-section (1) of that section 78A and to that section as so renumbered, sub-section (2) was added by sec. 47 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³See foot note 5 on page 596, *ante*.

⁴Substituted for the word "Bengal" by para. 3 (2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵The words "Central Government or any Provincial Government" were first substituted for the words "Government of India" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter
I.—Duties and Powers of District Boards.—Secs. 82-85.)*

82. It shall be lawful for the District Board, with the sanction of the ¹[State Government,] from time to time to guarantee the payment from the District Fund of sums as it shall think fit as interest on capital expended on any railways, tramways or other works which may directly improve the means of communication within the district or between the district and other districts :

District Board may guarantee interest on capital expended on works of communication.

²Provided that no application for the said sanction shall be made, in the case of a railway or tramway, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.

83. It shall be lawful for a District Board from time to time to undertake, on behalf of ³[the Government concerned], and upon such conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of ⁴[the Government] :

District Boards may undertake construction, repair and maintenance of Government buildings.

Provided that the cost of such construction, repair or maintenance shall be defrayed by ⁵[the Government concerned].

84. Subject to the provisions of section 33 and to any rules made by the ⁶[State Government] under this Act, every District Board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary.

District Board to appoint engineer and his subordinates.

85. It shall be the duty of the District Engineer to prepare all plans, designs, specifications and estimates which the District Board may require, to carry out such works as it may direct, and to conform generally to all rules that may be made by the District Board under section 32 or by the ⁷[State Government] under section 138.

Duties of District Engineer.

¹The words "Provincial Government" were first substituted for the words "Governor-General in Council" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²This proviso was added for Western Bengal, by Bengal Act V of 1908, sec. 41(2). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³These words were substituted for the words "the Government" by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴The words "the Crown" were first substituted for the words "the Government," *ibid.*, and subsequently the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵See foot-note 5 on page 596, *ante*.

[Ben. Act III]**(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 86, 86A.)**

Powers of
Boards
under
sections 78
and 79 to
be subject
to rules for
approval of
plans.

86. The powers of the District Board under sections 78 and 79 shall be subject to any rules made by the ¹[State Government] under this Act regarding the submission for approval of plans, designs, specifications and estimates ;

²[and the power of the District Board to make any contribution under section 79 shall be subject to any rules, made by the ¹[State Government] under this Act prescribing conditions precedent to the making of such contribution :]

³Provided that it shall not be necessary for the District Board to submit to a higher authority for sanction the plans and estimates for any work the total cost of which will not exceed ten thousand rupees, but in any case where the total cost of the work exceeds that amount, it shall be permissible to avoid the requirement of sanction by preparing the estimates in sections.

⁴D(1).—Tolls ⁵[on Roads and Bridges.]

Powers of
District
Board to
establish
toll-bars
and levy
tolls.

⁴86A. The District Board, with the sanction of the ¹[State Government], may establish a toll-bar—

⁶(ai) on any road, except a kutchra road, vested in the District Board, which has been constructed or reconstructed by or on behalf of the District Board after the commencement of the Bengal Local Self-Government (Amendment) Act, 1932 ; or

Ben. Act.
XXIV of
1932.

(i) on any bridge in the district which has, after the date⁷ of the commencement of the Bengal Local Self-Government (Amendment) Act, 1908, been constructed or purchased out of the District Fund, or to the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund ; or

Ben. Act.
V of
1908.

(ii) on any road-way or foot-way of a railway-bridge which has, after the said date, at the instance of

¹See foot-note 5 on page 596, *ante*.

²This paragraph was added to sec. 86, for Western Bengal, by Bengal Act V of 1908, sec. 42. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

³This proviso was added by sec. 48 of the Bengal Local Self-Government (Amendment) Act 1932 (Ben. Act XXIV of 1932).

⁴This heading and secs. 86A to 86M were inserted for Western Bengal, by Bengal Act V of 1908, sec. 43—see also foot-note 2 above.

⁵These words were substituted for the words "on Bridges" by sec. 49(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben Act XXIV of 1932).

⁶This clause (ai) was inserted by section 49 (2) (a), *ibid*.

⁷The 28th October, 1908.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Sec. 86A.)

the District Board and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles or animals ; or

(iii) at any place in the district, adjacent to any bridge referred to in clause (i) or clause (ii), at which tolls may conveniently be levied ;

and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge, road-way or foot-way :

Provided as follows :—

(1) no toll-bar shall be established, or tolls levied otherwise than for the purpose of recovering—

(a) the expenses incurred by the District Board in constructing, purchasing, contributing to or widening such bridge, road-way or foot-way,

(b) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself, for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way,

(c) interest on such expenses, at the rate of four *per centum per annum*, ¹[or when such expenses are defrayed wholly or in part from a loan, at one and a half *per cent.* above the rate of interest chargeable on such loan], and

(d) the capitalized value of the estimated cost to the District Board of maintaining such bridge, road-way or foot-way and of renewing it, if it requires periodical renewal ;

(2) no toll-bar shall be established or tolls levied, on or in respect of any bridge, road-way or foot-way, the cost or estimated cost of which, as indicated in clauses (a), (b) and (d) of proviso (1), was or is less than ²[five thousand] rupees.

¹These words were inserted by sec. 49 (2) (b) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²The words "five thousand" were substituted for the words "ten thousand" by section 49 (2) (c), *ibid.*

[Ben. Act III]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—Duties and Powers of District Boards.—Secs.86AA-86C.)

Power of District Board to construct temporary roads and bridges and levy tolls.

¹86AA. Notwithstanding anything contained in section 86A, it shall be lawful for a District Board with the sanction of the ²[State Government] to construct a temporary fair-weather road or bridge across any river, channel or dried up portion of a river bed, and to levy such toll on persons, vehicles and animals passing over such road or bridges as may be necessary to defray the expenses of the construction thereof and the incidental charges in connection therewith :

Provided that if there be any existing private ferry within a distance of one mile of such road or bridge, the District Board shall pay compensation to the owner of the ferry for the partial or complete loss of income from such ferry.

Private bridge or ferry not to be constructed near toll bridge.

²86AAA. Except with the permission of the District Magistrate, no person shall construct a private bridge or ply a private ferry, whether charges are made for the use of such ferry or not, within a distance of two miles of any bridge on which the District Board is authorised to levy tolls under section 86A or section 86AA.

Lease of toll-bar.

³86B. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 86A of this Act.

Procedure where two District Boards have contributed towards cost of road, bridge, etc.

³86C. When the District Boards of two adjacent districts, having jointly constructed, purchased or contributed towards the cost of the construction or widening of a 'road, bridge, road-way or foot-way, have received sanction ⁴[under section 86A or section 86AA] to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the ²[State Government] may, in ⁵[its] order according sanction, direct ; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the ²[State Government].

¹These sections 86AA and 86AAA were inserted by sec. 50 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot-note 5 on page 596, *ante*.

³Sections 86B and 86C are new—see foot-note 4 on page 656, *ante*.

⁴The word "road" was inserted by sec. 51 (a) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵These words, figures and letters were substituted for the words, figures and letters "under section 86A of this Act" by section 51(b) *ibid*.

⁶This word was substituted for the word "his" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter 1.—
Duties and Powers of District Boards.—Secs. 86D—86F.)*

¹86D. (1) The following persons and things shall be exempted from payment of tolls at any toll-bar established ²[under section 86A or section 86AA,] namely :— Exemptions.

- (a) Government stores and persons in charge thereof ;
- (b) police-officers and other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property ;
- (c) conservancy carts and othe vehicles and animals belonging to the District Board and persons in charge thereof ; and
- (d) any other class of persons or things which may be exempted by order of the District Board.

(2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.

¹86E. (1) When it has been determined that tolls shall be levied at any toll-bar established ²[under section 86A or section 86AA,] the District Board shall make and publish an order specifying the rates at which the tolls shall be levied. Rates of tolls.

(2) Such rates shall be subject to the sanction of the Commissioner, and may from time time to be varied with the like sanction.

¹86F. (1) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls. Table of tolls to be hung up.

(2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

¹Sections 86D to 86F are new—see foot-note 4 on page 656, *ante*.

²These words, figures and letters were substituted for the words, figures and letter "under section 86A of this Act" by sec. 52 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

[Ben. Act III]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 86G—86M.)

Power to
compound
for tolls.

¹86G. The District Board or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.

Power of
toll-collector or lessee
in case of
refusal to
pay toll.

¹86H. Any toll-collector or lessee of a toll-bar established under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

Penalty for
refusing to
pay toll.

¹86J. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

Police-
officers to
assist.

¹86K. If resistance is offered to any person authorized under this chapter to collect tolls, any police-officer whom he may call to his aid shall be bound to assist him ; and such police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

Penalty for
taking
unauthor-
ised tolls.

¹86L. If any person authorized under this chapter to collect tolls demands or takes any higher tolls than the tolls authorized under this chapter, he shall be liable to fine which may extend to fifty rupees, and in default of payment, to imprisonment for a term which may extend to one month.

District
Board to
publish
expenses,
etc., of
toll-bars.

¹86M. (1) When a toll-bar has been established and tolls have been levied, ²[under section 86A or section 86AA.] in respect of any road³, bridge, road-way or foot-way, the District Board shall, at the end of each financial year, publish, by causing to be posted up at their office, an abstract account showing—

- (a) the amount of the expenses incurred by the District Board in constructing, purchasing, contributing to or widening the road³, bridge, road-way or foot-way ;
- (b) the amount of the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way ;

¹Sections 86G to 86M are new—see foot-note 4 on page 656, *ante*.

²These words, figures and letters were substituted for the words, figures, and letters "under section 86A of this Act" by sec. 52 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³The word "road" was inserted by section 53, *ibid*.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 87, 88.)*

- (c) the amount of interest which has accrued due on such expenses ;
- (d) the capitalized value of the estimated cost to the District Board maintaining the road¹, bridge, road-way or foot-way, and of renewing it if it requires periodical renewal ; and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) As soon as such expenses, interest and capitalized value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such road¹, bridge, road-way or foot-way.

E.—Sanitation ²[and Public Health.]

87. It shall be the duty of every District Board, subject to any rules made by the ³[State Government] under this Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

District Board to provide for sanitation.

88. A District Board may, with the approval of, ⁴ * * * the Commissioner provide any place within its district with a proper and sufficient supply of water, and for this purpose may—

General powers for supplying district with water.

- (1) construct, repair and maintain water-works, well or tanks, and do any other necessary acts ;
- (2) take on lease or hire any water-works and purchase any water-works, or any water, or right to take or convey water, either within or without its district ; and
- (3) contract with any person for a supply of water.

¹ See foot-note 3 on page 660, *ante*.

² These words were added by sec. 54 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³ See foot-note 5 on page 596, *ante*.

⁴ The words "and subject to such limits of cost as shall be imposed by" were repealed by sec. 55 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

[Ben. Act III]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 88A—90.)

Power to
contribute
towards
cost of
municipal
water-
supply or
prevention
of plague.

¹88A. A District Board may, with the sanction of the ²[State Government], contribute such annual or other sum as may be agreed upon towards the cost of—

- (a) the construction, repair and maintenance, under the provisions of the Bengal Municipal Act, ³[1932], of water-works, wells, or tanks within the district, or
- (b) taking measures under the said Act for the prevention of plague in the district :

Ben. Act
XV of
1932.

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted.

Public
streams,
channels,
water-
courses,
tanks,
reservoirs,
springs and
wells to be
under
control
of District
Board.

⁴89. All streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any ⁵[officer of the Government] shall, for the purposes of this Act, be under the control and administration of the District Board.

⁶89. Subject to the provisions of the Bengal Village self-Government Act, 1919, all streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any ⁵[officer of the Government] shall, for the purpose of this Act, be under the control and administration of the District Board.

Public
streams,
channels,
water-
courses,
tanks,
reservoirs,
springs
and wells
to be
under
control
of District
Board.
Ben. Act
V of 1919.

District
Board
may make
provision
for
drinking
water,
bathing
places, etc.

⁷90. (1) The District Board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any ⁵[officer of the Government], for the supply of water for drinking and for culinary purposes ; and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid ;

¹Section 88A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 44. That Act was extended to Eastern Bengal, by Bengal Act I of 1914, sec. 3 and Sch. I.

²See foot-note 5 on page 596, *ante*.

³See foot-note 4 on page 596, *ante*.

⁴Section 89 is in force in this form in areas in which Bengal Act V of 1919, is not in force.

⁵The words "officer of the Crown" were first substituted for the words "officer of the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶Section 89 is in force in this form in areas in which Bengal Act V of 1919, is in force—see item No. 15 of Sch. I to that Act.

⁷This section was substituted for the original section by sec. 56 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 90A, 90B.)*

and may similarly set apart a sufficient number of the same for the purpose of bathing ;

and a sufficient number for washing animals and clothes or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

(2) From the date of publication of any such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs.

(3) The District Board may, by an order published at such places as it may think fit, prohibit in the private portion of any stream or channel used as a part of the public water-supply, bathing, washing of clothes or animals or any act likely to pollute the water in the public portion of such stream or channel and may, if the owner of any private tank gives his consent in writing, similarly prohibit the use of such tank for any purpose other than the supply of water for drinking.

¹90A. If the District Health Officer of a district certifies that the water in any well, tank or other place situated within the district is likely, if used for drinking, to engender or cause the spread of any dangerous disease, the District Board may, by a public notice, prohibit the removal or use of such water for drinking during a period to be specified in such order.

Prohibition
of use of
unwhole-
some water.

²90B. (1) The District Board may, by written notice require the owner or occupier of any land within a reasonable time to be specified therein either to re-excavate or fill up with suitable material, at his option, or to cleanse any well, water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood.

Power to
require
unwhole-
some tanks
or private
premises to
be cleansed
or drained.

(2) If any work required by any such notice is not executed within the period specified in the notice, the District Board may itself cause such work to be carried out, and all persons employed in executing such work may enter on the said well, water-course, tank or pool or land to be drained and land in the vicinity thereof so far as may be necessary to carry out the said work :

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensatipn to any other person, the District Board shall provide such land and pay such compensation.

¹This section was inserted by section 57 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²This section was inserted by sec. 57, *ibid*

[Ben. Act III]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Board.—Secs. 91—92.)*

(3) If the District Board execute the work of such re-excavation or cleaning or draining or filling up suitable material, it may retain possession of the tank or pool, or the site of such tank or pool and turn the same to profitable account until the expenses thereby incurred have been realized from such profits or paid by the owner or occupier of the property.

Public
Health
Committees
and
District
Health
Officers.

¹91. (1) In every district there shall be constituted a Public Health Committee consisting of—

- (a) six members of the District Board ;
- (b) the Civil Surgeon of the district, who shall be an *ex-officio* member ; and
- (c) such additional members, if any, not being members of the District Board, as may be co-opted by the Committee, not exceeding in number half the number of the members referred to in clause (a).

(2) The duties of the Public Health Committee shall be such as may be prescribed by the ²[State Government] by rules made under section 138.

(3) The District Board shall appoint a District Health Officer and may also appoint properly qualified persons to be Sanitary Inspectors and, subject to the provisions of section 33, shall fix the salary of these officers and the details of the establishment subordinate to them.

(4) The ²[State Government] may, for reasons which may appear to it to be sufficient, exempt any District Board, wholly or partially, from the operation of this section.

District
Board to
undertake
measures
for the
public
health.

²91A. Every District Board shall, subject to such rules as may be made by the ²[State Government] in this behalf under section 138, take such measures as may be possible with due regard to the financial resources of the Board to ensure the public health of the district after considering any recommendations, on the subject that may be made to it by the Public Health Committee, and shall incur such expenses or undertake such liabilities as may be necessary in that behalf.

F.—Vaccination.

District
Board to
have
supervision
of
vaccinators
within
their
districts.

92. Every District Board shall, within its district, be charged with the appointment, payment, management and supervision of all public vaccinators.

¹This section was substituted for the original section by section 58 of the Bengal Local Self-Government (Amendment) Act 1932 (Ben. Act XXIV of 1932).

²See foot-note 5 on page 596, *ante*.

³This section 91A was inserted by the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932), sec. 59.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 93—98.)*

93. (*District Board to appoint Inspectors of Vaccination.*)—
*Rep. by sec. 60 of the Bengal Local Self-Government (Amendment)
Act, 1932 (Ben. Act XXIV of 1932.)*

Ben. Act V
of 1880.

94. In every district to which the Bengal Vaccination Act, 1880, has been, or may hereafter be, extended, the District Board shall have the powers of the Magistrate of the district under section 25 of the said Act.

District Board to have powers of Magistrate in district to which the Vaccination Act extends.

95. The Commissioner may, with the sanction of the ¹[State Government] make rules consistent with this Act, and with the Bengal Vaccination Act, 1880, for the guidance of every District Board in the exercise of the powers conferred under the three last preceding sections, and may from time to time, with the like sanction, repeal or alter such rules.

Commissioner to make rules for guidance of District Boards.

96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of, the Bengal Vaccination Act, 1880.

Act to be read with the Bengal Vaccination Act.

G.—Census.

97. It shall be lawful for the Commissioner with the sanction of the ²[Central Government], at any time to require a District Board to make an account of the number of persons who, at the time of taking such account, shall be within the district of such District Boards :

Commissioner may direct District Board to take a census.

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of the District Fund.

98. Every District Board which shall be required to take an account under the last preceding section shall, in taking such account, conform to any rules made by the ³[Central Government] under this Act, and to the provisions of any Act for the time being in force for regulating the taking of a census.

Powers for taking census.

¹See foot note 5 on page 596, *ante*.

²These words were substituted for the words "Local Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act III

{Part III.—Duties and Powers of Local Authorities.—Chapter I.—
Duties and Powers of District Boards.—Secs. 99—100.)

H.—Famine ¹[and Distress.]

District Board may take relief measures in case of famine or serious distress.

99. It shall be lawful for a District Board, subject to such limit of expenditure as may be prescribed by the Commissioner, to take such measures as it thinks fit for the relief of famine ²[or serious distress] within its district, and for that purpose to—

(1) open and maintain such relief works as may be necessary ;

(2) open and maintain such temporary hospitals, poor-houses, orphanages and places for the gratuitous distribution of food as may be necessary ;

(3) employ such extra medical or other assistance as may be necessary ;

³(4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary.

Irrigation works for relief of famine or scarcity.

⁴99A. It shall be lawful for a District Board, with the sanction of the Commissioner, to incur expenditure on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of famine or scarcity within its district :

Provided that no such expenditure shall be incurred unless such irrigation work has been sanctioned by the ⁵[State Government] as a relief work in accordance with rules made under this Act.

I.—Miscellaneous.

Miscellaneous powers of District Board.

100. It shall be lawful for a District Board, with the approval of the Commissioner, and ⁶[subject to such rules and restrictions as the ⁷[State Government] may from time to time prescribe] under this Act, to—

Staging bungalows and sarais.

(1) establish and maintain, at such places within its district as it thinks fit, staging bungalows and *sarais* for the use of travellers,

¹These words were substituted for the word "Relief", for Western Bengal, by Bengal Act V of 1908, sec. 46(1). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

²These words were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 46(2) ; see also foot-note 1, above.

³This clause (4) was added for Western Bengal by Bengal Act V of 1908, sec. 46(3). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴This section 99A was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 47—see also foot-note 1, above.

⁵See foot-note 5 on page 598, ante.

⁶These words were substituted for the words "subject to any rules made by the Lieutenant-Governor," for Western Bengal, by Bengal Act V of 1908, sec. 48(1)—see also foot-note 1, above.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—Chapter I.
—Duties and Powers of District Boards.—Sec. 100.)*

and charge such fees for the use of such bungalows and *sarais* as it thinks fit :

Provided that such fees shall in no case exceed the amount prescribed by the Commissioner ;

¹(1a) grant rewards to medical practitioners or other persons for giving prompt information to the District Board of the outbreak of any dangerous epidemic disease which may come to their knowledge ;

Rewards
for infor-
mation of
the out-
break of
any
dangerous
epidemic
disease.

(2) offer rewards, upon such scale as may be approved by the Commissioner, for the destruction of noxious animals within the district ;

Rewards
for destruc-
tion of
noxious
animals.

(3) hold, within ²the district, from time to time, fairs and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as may from time to time be approved by the Commissioner ;

Fairs and
exhibitions.

³(3a) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and charge such fees for the use of dispensaries as may from time to time be approved by the Commissioner ;

Veterinary
dispens-
aries.

⁴(3b) appoint and pay qualified persons to prevent and treat diseases of horses, cattle and other animals ;

Treatment
of diseases
of animals.

⁵(3c) provide for the improvement of the breed of horses, cattle and asses, and for the breeding of mules ;

Breeding of
animals.

⁶(3d) ⁴[incur expenditure within the District Board area in the interest of agricultural development or progress or] make grants-in-aid of measures for improving agricultural ⁵[and for the maintenance of model farms or the furtherance of experimental measures in agriculture] or for carrying out any of the objects specified in clause (3a) or clause (3c) ; and

Grants-in-
aid of
agricul-
tural and
veterinary
improve-
ments.

¹This clause was inserted by sec. 61(a) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²The word "the" in sec. 100(3), was substituted for the word "its", for Western Bengal, by Bengal Act V of 1908, sec. 48(2). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³Clauses (3a) to (3d) were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 48(3)—see also foot-note 2 above.

⁴These words were inserted by sec. 61(b) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵These words were inserted by section 61(b), *ibid*.

[Ben. Act III]

(Part III.—Duties and Powers of Local Authorities.—Chapter I.
—Duties and Powers of District Boards.—Secs. 100A—100E.)

Works not
otherwise
provided
for.

(4) undertake and carry out ¹[or contribute towards] any other local work likely to promote the health, comfort or convenience of the public, and not otherwise provided for by this Act.

Power to
District
Board to
grant
licenses for
fairs or
melas.

²100A. It shall be lawful for a District Board to require the owner or the lessee of a fair or *mela* or an owner or a lessee of land intending to establish a fair or *mela* thereon, to obtain a license in this behalf from the District Board on such terms and conditions, and on payment of such fees as the ³[State Government] may prescribe by rules made under section 138.

Prohibition
of
prostitution
within
fairs or
melas.

²100B. A District Board may, by public notice, issued at least one month before the date of any fair or *mela* prohibit prostitution within such fair or *mela* or within half a mile thereof.

Power of
District
Board to
require
sanitary
arrange-
ments to
be made in
hats or
markets.

²100C. Subject to any rules made under section 138, it shall be lawful for a District Board by an order in writing to require the owner or the lessee of a private *hat* or market to make proper sanitary arrangements and to remove any insanitary conditions within such *hat* or market.

Penalty
for holding
fair or
mela,
without
license or
for failing
to make
proper
sanitary
arrange-
ments in
hats or
markets.

²100D. If any person holds a fair or *mela* or a private *hat* or market without or otherwise than in conformity with the terms of a license granted under section 100A or in contravention of an order issued under section 100C, as the case may be, he shall be liable to fine which may extend to two hundred rupees, and in the case of a continuing breach, to a daily fine not exceeding twenty-five rupees.

Penalty for
certain
offences
near a
public ferry
or a bridge
on which
tolls are
levied.

²100E. If any person, without the sanction of the District Magistrate, constructs a temporary bridge or plies a ferry not ostensibly for hire within two miles of a public ferry, which is under the management of a District Board, or a bridge on which a District Board is authorised to levy tolls he shall be liable to fine which may extend to one hundred rupees.

¹These words were inserted by section 61(c) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²These sections 100A to 100E were inserted by sec. 62 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³See footnote 5 on page 596, *ante*.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter II.—Duties and Powers of Local Boards.—Chapter III.—Duties and Powers of Union Committees.—Secs. 101-104.)

CHAPTER II.

DUTIES AND POWERS OF LOCAL BOARDS.

101. The ¹[State Government], or, subject to ²[its] control, a District Board, may direct that within the area subject to the authority of a Local Board, any matter placed under the control and administration of the District Board under this Act shall be wholly or partly transferred, to the control and administration of the Local Board, with adequate funds for the purposes of such control and administration.

Duties of
Local
Boards.

A Local Board, as the agent of, and subject to the control of, the District Board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under this section.

It shall be the duty of the District Board to enforce the responsibility imposed on a Local Board by this section.

102. Except as otherwise provided by this Act, a Local Board shall not incur expenses or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

Limits on
expendi-
ture of
Local
Board.

103. * * * ³It shall be the duty of the Local Board to procure and submit, in such form as the District Board may prescribe, all such reports, returns and statistics as the District Board may from time to time require.

Returns by
Local
Board.

⁴CHAPTER III.

⁴DUTIES AND POWERS OF UNION COMMITTEES.

⁴104. A Union Committee as the agent of, and subject to the control of, the ⁵[District Board], shall within the Union, have the control and administration of, and be responsible for, all matters specified in this chapter except such of those matters as the ⁶[District Board] may think fit to take under its direct control and administration.

Union
Committee
to be
subordinate
to District
Board.

¹ See foot-note 5 on page 596, *ante*.

² See foot-note 6 on page 658, *ante*.

³ The words "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority and" were repealed, in Western Bengal, by Bengal Act V of 1908, sec. 2. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴ Sections 104 to 119 (Chapter III of Part III) are repealed in areas in which Bengal Act V of 1919 is in force—see item No. 16 of Sch. I to that Act.

⁵ The words "District Board" were substituted for the words "Local Board", for Western Bengal, by Bengal Act V of 1908, sec. 49—see also foot-note 3, above.

[Ben. Act III]**(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
sections 105—107.)**

Union
Committee
to submit
reports,
estimates
and
accounts
to District
Board.

¹105. Every Union Committee shall submit annually to the ²[District Board], on or before such date as the ²[District Board] may appoint, ³[an estimate of the probable receipts and expenditure of the Committee under each head of account] for the ensuing financial year, and an account of its receipts and expenditure for the past financial year; and shall also submit any other reports which the ²[District Board] may from time to time require.

⁴Every estimate submitted under this section shall be subject to the sanction of the District Board who may, before sanctioning any estimate, modify it as they may think fit.

Limits on
expendi-
ture of
Union
Committee.

¹106. A Union Committee shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the ²[District Board].

Union
Committee
to send
schedule of
roads and
bridges to
District
Board.

¹107. Every Union Committee shall, within such time as the ²[District Board] may direct, forward to such ²[District Board] a schedule of all village roads ⁵[and bridges thereon] within the Union.

¹ See foot-note 4 on page 669, *ante*.

² The words "District Board", in secs. 105 to 107 were substituted for the words "Local Board", for Western Bengal, by Bengal Act V of 1908. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

³ These words were substituted for the words "an estimate of the probable expenditure of the Committee" for Western Bengal, by Bengal Act V of 1908, sec. 50(2)—see also foot-note 2, above.

⁴ This clause was added to sec. 105, for Western Bengal, by Bengal Act V of 1908, sec. 50(3)—see also foot-note 2 above.

⁵ The words "and bridges thereon" in sec. 107 were inserted for Western Bengal, by Bengal Act V of 1908, sec. 50(4)—see also foot-note 2, above.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
sections 108, 109.)

Such schedule shall state the length and width of the roads, the number, description and dimensions of bridges and such other particulars as the ¹[District Board] may require.

²108. All village-roads ³[and bridges thereon] within a Union, and the stones and other materials thereof, and also all erections, materials, implements and other things provided for such roads ⁴[and bridges], shall be placed under the control and administration of the Union Committee.

Village-roads and bridges placed under control and administration of Union Committee.

²109. A Union Committee shall, so far as the Union Fund permits, from time to time, cause the village-roads ³[and bridges thereon] to be maintained and repaired, and may do all things necessary for such purpose, and may—

Maintenance and repair of village-roads and bridges.

- (a) lay out and make village-roads ;
- (b) build and construct new bridges ;
- (e) turn, divert, discontinue or stop up any village-road ⁴[or bridge thereon] ; and
- (d) widen, open, enlarge or otherwise improve any such road ⁵[or bridge thereon].

¹See foot-note 5 on page 669, *ante*.

²See foot-note 4 on page 669, *ante*.

³The words "and bridges thereon", in secs. 108 and 109 were inserted, for Western Bengal, by Bengal Act V of 1908, sec 51(1). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁴The words "and bridges" in sec. 108, were inserted, for Western Bengal, by Bengal Act V of 1908, sec 51(2)—see also foot-note 3, above.

⁵The words "or bridge thereon" in clauses (c) and (d) of sec. 109 were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 51(3)—see also foot-note 3 above,

[Ben. Act III.]

*(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
sections 110—112.)*

District
Board
may
delegate
manage-
ment of
portions of
district
roads
to Union
Committee.

¹110. The ²[District Board] may, with the consent of a Union Committee, delegate to such Committee the management of so much of any road under the management of the ³[District Board or of a Local Board] as may be situated within such Union, and such Union Committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it and shall be responsible to the ²[District Board] in that behalf.

Pounds.

¹ ⁴111. Every Union Committee shall perform such functions as may be transferred to it by notification under section 31 of the Cattle trespass Act, 1871.

1 of 1871.

Primary
schools.

¹ ⁵112. Subject to any rules made by the ⁶[State Government] under this Act, every Union Committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the Union, the appointment (subject to section 36) of the *gurus* of such schools and the transmission to such *gurus* of any rewards that may be granted by the District Board or Local Board.

¹See foot-note 4 on page 669, *ante*.

²The words "District Board" in sec. 110, were substituted for the words "Local Board" for Western Bengal, by Bengal Act V of 1908, sec. 52(a). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

³These words were substituted for the words "Local Board" for Western Bengal, by Bengal Act V of 1908, sec. 52(b)—see also foot-note 2 above.

⁴This section 111 was substituted for the original section 111, for Western Bengal, by Bengal Act V of 1908, sec. 58—see also foot-note 2, above.

⁵This section 112 will be repealed when the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930), comes into force.

⁶See foot-note 5 on page 596, *ante*.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
sections 113—115.)

¹113. Subject to any rules made by the ²[State Government] under this Act, a Union Committee may, with its own consent, be charged with, and made responsible for the maintenance, management and visiting of any dispensary within the Union.

Dispensaries.

¹ ²114. A Union Committee shall, if required to do so by the Magistrate of the district, provide for the registration of births and deaths within the Union, and shall submit such returns thereof as the said Magistrate may direct.

Registration of births and deaths.

¹ ⁴115. Every Union Committee shall, subject to the control of the District Board, and in accordance with rules made by the ²[State Government] under this Act,—

Duties of Union Committee as to sanitation, conservancy and drainage.

(1) provide as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein ;

(2) make special arrangements for the sanitation and conservancy of fairs and *melas* held within the Union ;

¹See foot-note 4 on page 669, *ante*.

²See foot-note 5 on page 596, *ante*.

³This section 114 was substituted for the original section 114, for Western Bengal, by Bengal Act V of 1908, sec. 54. That Act was extended to Eastern Bengal, by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴Sections 115 to 119 were substituted for the original sections 115 to 119 for Western Bengal, by Bengal Act V of 1908, sec. 55—see also foot-note 3, above.

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
section 116.)

(3) have control of all drains and other conservancy works within the Union which are not under the control of any other authority ; and

(4) execute all works which are necessary for improving the sanitation, conservancy or drainage of the Union :

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

Powers of
Union
Committee
as to
sanitation,
conser-
vancy and
drainage.

¹ ² 116. (1) If it appears to the Union Committee that, for any reason, it is necessary to improve the sanitary condition of any village or part of a village within the Union, the Committee may, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner under rules made by the ³[State Government] under this Act,—

- (a) cause huts or privies to be removed either wholly or in part ;
- (b) cause private drains to be constructed, altered or removed ;
- (c) cause streets, passages and public drains to be constructed or widened ;

¹ See foot-note 4 on page 669, *ante*.

² This section 116 is new—see foot-note 4 on page 673, *ante*.

³ See foot-note 5 on page 596, *ante*.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
section 116.)*

- (d) cause tanks or low lands to be filled up or deepened ; and
- (e) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.

(2) The Union Committee may, by written notice,—

- (i) require the owner or occupier of any hut, or the owner of any privy to remove such hut or privy either wholly or in part, in pursuance of clause (a) of sub-section (1) ; or
- (ii) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause (b) of sub-section (1),

within a period to be specified in the notice.

(3) If any work required by any such notice is not executed within the period specified in the notice, the Union Committee may themselves cause such work to be carried out.

(4) All expenses incurred by the Union Committee under sub-section (1) or sub-section (3), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 117.)

Cleansing
of villages.

¹ §117. (1) The Union Committee may, with the sanction of the District Board, employ a special establishment for the cleansing of any village within the Union.

(2) If any village for which no establishment is maintained under sub-section (1) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings to the satisfaction of the Committee within a period to be specified in the notice.

(3) If any person on whom notice has been served under sub-section (2) fails to comply with the requisition contained in the notice, the Union Committee shall,

unless reasonable cause to the contrary is shown, cause his holding to be cleansed, and

recover from such person such portion of the cost of such cleansing as may be approved by the Sanitation Committee, as if the same were an arrear of the assessment imposed under the Village Chaukidari Act, 1870
* * * *

Ben. Act
VI of 1870.

¹ See foot-note 4 on page 669, *ante*.

² This section 117 is new—See foot-note 4 on page 673, *ante*.

³ The words—"or, when the Ohota Nagpur Rural Police Act, 1887, is in force, under that Act" were repealed by Bengal Act I of 1914, sec. 6 and Sch. IV.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118.)

¹ **118.** (1) The Union Committee may, subject to rules made by the ²[State Government] under this Act, by written order,—

Power of Union Committee to control building, and penalties for disobedience

(a) direct in accordance with a scheme approved by the District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an alignment to be prescribed by the Committee and demarcated on the ground, and

(b) prescribe, in accordance with the said scheme, the space which shall intervene between each new building and between new buildings and any road in the village.

(2) Where any building or any addition thereto, has been placed in contravention of an order passed by the Union Committee under subsection (1), the Union Committee may apply to the

¹ See foot-note 4 on page 669, *ante*.

² This section 118 is new—see foot-note 4 on page 673, *ante*.

³ See foot-note 5 on page 596, *ante*.

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118.)

District Magistrate, and such Magistrate may make an order—

(i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or

(ii) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the Union Committee at the expense of the owner :

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.

(3) If any person to whom a direction to demolish or alter any building is given under sub-section (2), clause (i), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118A.)

twenty rupees and to further fine which may extend, in the case of a masonry building, to ten rupees, and in the case of any other building, to two rupees, for each day during which he so fails after the first day.

¹ **118A.** (1) A Union Committee may provide the Union or any part thereof, with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—

Water-supply.

(a) construct, repair and maintain tanks or wells, clear out streams or water-courses, and do any other necessary acts ;

(b) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream or water-course, or any right to take or convey water, within or without the Union ;

(c) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the Union, or provide facilities for obtaining water therefrom ;

¹ See foot-note 4 on page 669, *ante*.

² Section 118A is new—See foot-note 4 on page 678, *ante*.

[Ben. Act III]**(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118A.)**

(d) deal with any tank, well, pool, ditch, drain or place containing, or used for the collection of, any drainage, filth, stagnant water or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise preventing it from being prejudicial to health, but not so as in any case to interfere with any private right : or

(e) contract with any person for a supply of water.

(2) When a Union Committee has, under clause (c), with the consent of the owner, cleansed or repaired or provided facilities for obtaining water from any tank, well, stream or water-course, the same shall, subject to any rights retained by the owner, with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.

(3) Any tank, well, stream or water-course which a Union Committee may construct, repair or maintain under clause (a), or purchase or acquire by lease under clause (b), shall remain under the control and administration of the Union Committee ; and the Committee may, by order duly published in the village or villages in which such tank, well, stream or water-course is situated, set apart the same, or,

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118B.)

subject to the provisions of clause (c), any other tank, well, stream or water-course within the Union, for the supply of water for drinking and culinary purposes.

¹ **118B.** The Union Committee, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, section 115, section 116, section 117, section 118 or section 118A (:)

Power of entry.

Provided as follows :—

- (a) no such entry shall be made between sunset and sunrise ;
- (b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry ; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

¹ See foot-note 4 on page 669, *ante*.

² Section 118B is new—see foot-note 4 on page 678, *ante*.

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118C.)

Method of meeting cost of works of sanitation, drainage and conservancy of villages.

¹ *118C. (1) If the income of the Union Committee from other sources is insufficient to meet the expenses incurred, or likely to be incurred, by the Committee in carrying out its duties or exercising its powers under section 115, section 116, section 117, section 118, or section 118A, the Committee may, from time to time, impose on the owners of buildings, tanks, wells or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the deficiency, together with ten *per cent.* above such sum to meet the expenses of collection and losses due to non-realization of their shares from defaulters :

Provided that such assessment shall not be imposed unless—

- (i) it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the Union Committee have voted, and
- (ii) it is previously sanctioned by the District Board and the Commissioner.

¹ See foot-note 4 on page 669, *ante*.

*Section 118C is new—see foot-note 4 on page 678, *ante*.

of 1885].

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118C.).

(2) The Union Committee shall appoint one of their number, or any other person, to receive and collect the said assessment, and to grant receipts for the same and to keep the accounts thereof; and may permit the person so appointed to retain any sum not exceeding five *per cent.* of the amount collected by him, to repay the costs of such collection.

(3) The provisions of sections 15 to 19, 25 to 29, 31 to 34, 46A, 46B and 63 of the Village Chaukidari Act, 1870,
* * * * *²shall apply to such assessment and the payment and recovery thereof:

Ben. Act
VI of 1870.

Provided as follows :—

(a) all references in any of the said sections of the Village Chaukidari Act, 1870, to a *panchayat* shall be construed as references to the Union Committee;

(b) the references in section 46B of the said Village Chaukidari Act, 1870, to the *chaukidari* assessment shall be construed as references to the assessment imposed under this section,

(c) * * * * *

¹The words and figures "or, where the Chota Nagpur Rural Police Act, 1887, is in force, the provisions of sections 9, 10, 13, 15 to 18, 20, 21, 34 and 36 of that Act" in sub-section (3) of section 118C, were repealed by Bengal Act I of 1914, sec. 6 and Sch. IV.

²Clause (c) of the proviso to sec. 118C was repealed by Bengal Act I of 1914, Sch. IV.

(Part III.—Duties and Powers of Local Authorities.—Chapter III.—Duties and Powers of Union Committees.—Section 118D.)

(d) the amount to be assessed on any one person shall not exceed five rupees *per mensem* ;

(e) the amount assessed on any person may be made payable either in lump or in periodical instalments ; and

(f) the proceeds of the said assessment shall be credited to the Union Fund.

Appeals
against
orders,
awards
and assess-
ments.

¹ ²118D. Any person who is aggrieved by any order of a Union Committee—

(i) directing such person to take any action with regard to his property under sub-section (2) of section 116, sub-section (2) of section 117, or sub-section (1) of section 118, or

(ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116, or

(iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C.

¹See foot-note 4 on page 669, *ante*.

²Section 118D is new—see foot-note 4 on page 673, *ante*.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
(Part IV.—Control.—Sections 119, 120.)

may, within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (c) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

¹**119.** (1) Notwithstanding anything in the foregoing provisions of this Act, the District Board may, by order in writing with the sanction of the Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board, instead of the District Board, either for all purposes or for the purposes specified in the order.

(2) Any order made under sub-section (1) may, with the like sanction, be revoked.

(3) So long as an order made under sub-section (1) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board.

PART IV.—Control.

120. It shall be the duty of the ^a[State Government] and of all Commissioners and Magistrates of districts, acting under the orders of the ^a[State Government], to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder.

¹ See foot-note 4 on page 669, *ante*.

² This section 119 is new—see foot-note 4 on page 673, *ante*.

³ See foot-note 5 on page 596, *ante*.

Powers of District Board to subordinate Union Committee to Local Board.

Power of State Government and of Commissioners and of Magistrates of districts with respect to proceedings of local authorities.

[Ben. Act III]

(Part IV.—Control.—Secs. 121—123.)

The ¹[State Government] may, by order in writing, annul any proceeding which ²[it] considers not to be in conformity with law and with the said rules and may do all things necessary to secure such conformity.

Records to be open for inspection of Commissioner or of Magistrate of district.

121. Every local authority shall at all times permit the Commissioner or the Magistrate of the district to have access to all its books, proceedings and records.

Power of Commissioner or of Magistrate of district to inspect works.

122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and inspect or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

Appointment of Inspector of Local Works, and duties to be performed by him.

123. It shall be lawful for the ¹[State Government] to appoint an officer to be Inspector of Local Works in each Commissioner's division, or in more than one such division, and to sanction an establishment for such officer.

It shall be the duty of the Inspector of Local Works ³[not less than twice a year] to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The Inspector of Local Works shall also perform such duties and exercise such powers as may be assigned to him, by any rules made by the ¹[State Government] under this Act.

The Inspector of Local Works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, estimates and reports as he thinks fit.

¹See foot-note 5 on page 596, *ante*.

²This word was substituted for the word "he" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were inserted by sec. 63 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.]

(Part IV.—Control.—Sections 124—126.)

A report of every inspection shall be prepared and a copy thereof forwarded to the District Board concerned, through the Magistrate of the district.

In all matters of professional detail the local authority shall be guided by the report of the Inspector of Local Works.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the execution of any order or resolution of a local authority within the jurisdiction of such Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done, by such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public or to any class or body of persons, or to lead to a breach of the peace.

Power to suspend action of local authorities by Magistrate of district and Commissioner.

125. ¹[(1)] When the Commissioner is informed on complaint, made or otherwise, that a District Board has made default in performing any duty imposed on it by or under this Act, the Commissioner if satisfied, after due inquiry, that such District Board has made default as alleged, may, by order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in case of default by District Board.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Board.

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance ; and such person shall make payment accordingly.

¹(2) If the District Board is dissatisfied with any order made by the Commissioner in regard to any matter mentioned in this section, the matter shall be referred to the ¹[State Government], and its decision thereon shall be final.

126. In case of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a local authority is empowered to execute, or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the District Board.

Extraordinary powers in case of emergency.

¹Section 125 was renumbered as sub-section (1) of that section and to that section as so renumbered, sub-section (2) was added by sec. 64 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot-note 5 on page 596, *ante*.

[Ben. Act III]**(Part IV.—Control.—Sections 127—130.)**

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance ; and such person shall make payment accordingly.

Magistrate's order under sections 124 and 126 to be reported to Commissioner who may confirm, modify or rescind it.

127. When the Magistrate of the district makes any order under section 124 or 126, he shall forthwith submit to the Commissioner a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Commissioner may thereupon confirm, modify or rescind the order.

Commissioner's proceedings to be submitted to State Government for final orders.

128. In every case under the last preceding section in which the Commissioner confirms or modifies any order, he shall forthwith submit to the ¹[State Government] a copy of the proceedings, and the ²[State Government] may thereupon confirm, modify or rescind the order of the Commissioner.

Commissioner's orders under sections 124 and 125 to be submitted to State Government.

129. When the Commissioner makes any order under section 124 or 125, he shall forthwith submit to the ¹[State Government] a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the ¹[State Government] may thereupon confirm, modify or rescind the order.

Powers and duties to Commissioner and Magistrate of district transferred to District Board and Local Board.

²130. All powers conferred upon Commissioners and upon Magistrates of districts in regard to District Boards by sections 124, ³[125] and 126 shall be exercised,

⁴130. All powers conferred upon Commissioners and upon Magistrates of districts in regard to District Boards by sections 124, ³[125] and 126 shall be exercised,

Powers and duties of Commissioner and Magistrate of district transferred to district Board.

¹See foot-note 5 on page 596, *ante*.

²Section 130 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

³The figures "125" in this paragraph of sec. 130 were inserted for Western Bengal by Bengal Act V of 1908, sec. 56(a). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁴Section 130 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 17 of Sch. I to that Act.

of 1885.]

(Part IV.—Control.—Section 130.)

in respect of a Union Committee, ¹[by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate], and,

in respect of a Local Board, by the District Board.

in respect of a Local Board, by the District Board.

When a Local Board makes any order under this section it shall forthwith submit to the District Board a copy of the order, with a statement of its reasons for making it, and with any explanation which the Union Committee concerned may wish to offer.

The District Board may thereupon confirm, modify or rescind the order.

When a District Board makes any order under this section, it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reason for making it, and with any explanation which the Local Board ²[or Union Committee] may wish to offer.

When a district Board makes any order under this section, it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reason for making it, and with any explanation which the Local Board may wish to offer.

If the Commissioner is dissatisfied with the order, he may report the matter to the ³[State Government] who may thereupon confirm, modify or rescind the order.

If the Commissioner is dissatisfied with the order, he may report the matter to the ³[State Government] who may thereupon confirm, modify or rescind the order.

¹These words were substituted for the words "by the Local Board" for Western Bengal by Bengal Act V of 1908, sec. 56(b)—see also foot-note 3 on page 688, *ante*.

²The words. "or Union Committee" were inserted for Western Bengal by Bengal Act V of 1908, sec. 56(2)—see also foot-note 3 on page 690, *ante*.

³See foot-note 5 on page 596, *ante*.

(Part IV.—Control.—Section 131.)

Power of State Government to supersede District Board or Local Board or Union Committee in case of incompetency or wilful neglect of duty.

¹131. ²[(1)] If a District Board or Local Board ³[or Union Committee] is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the ⁴[State Government] may, ⁵[after giving the local body concerned an opportunity of submitting an explanation in regard to the matter,] by notification, specifying the reason for so doing, supersede such District Board or Local Board [or Union Committee] ⁶[for any period or periods not exceeding ⁷(six years) in the aggregate] :

⁸131. ⁹[(1)] If a District Board or Local Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers the ⁴[State Government] may ⁵[after giving the local body concerned an opportunity of submitting an explanation in regard to the matter,] by notification, specifying the reason for so doing, supersede such District Board or Local Board ⁶[for any period or periods not exceeding ⁷(six years) in the aggregate] :

Power of State Government to supersede District Board or Local Board in case of incompetency or wilful neglect of duty.

⁹Provided that, in the case of a District Board instead of superseding the District Board under this section, the ³[State Government] may, after consideration of any explanation as aforesaid, by notification, specifying the reasons for so doing, direct that the District Board be reconstituted as soon as possible, the necessary elections ¹⁰ * * of members to be made in accordance with the provisions of this Act relating thereto ; and from the date on which the results of such new elections ¹⁰ * * are

¹Sections 131 and 132 are in force in this form in areas in which Bengal Act V of 1919 is not in force.

²Section 131 was renumbered as sub-section (1) of that section and after that sub-section as so renumbered, sub-section (2) was inserted by sec. 2 of the Bengal Local Self-Government (Amendment) Act, 1963 (West Ben. Act VIII of 1963).

³The words "or Union committee" in sec. 131 were inserted for Western Bengal by Bengal Act V of 1908, sec. 57. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴See foot-note 5 on page 586, *ante*.

⁵These words were inserted by sec. 65(1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶Substituted for the words "for a period not exceeding three years" by sec. 2 of the Bengal Local Self-Government (Amendment) Act, 1960 (West Ben. Act V of 1960) and shall be deemed always to have been substituted.

⁷Substituted for the words "four years" by sec. 2 of the Bengal Local Self-Government (Amendment) Act, 1961 (West Ben Act II of 1961).

⁸Sections 131 and 132 are in force in this form in areas in which Bengal Act V of 1919 is in force—see items Nos. 18 and 19 of Sch. I to that Act.

⁹These provisos were added to section 131 by section 65(2) of the Bengal Local Self-Government (Amendment) Act 1932 (Ben. Act XXIV of 1932.)

¹⁰The words "and appointments" were omitted by sec. 9 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act IX of 1947).

of 1885.]

(Part IV.—Control.—Section 132.)

published in the ¹[*Official Gazette*], all members constituting the former Board shall, unless they are re-elected or re-appointed ²[for the purpose of sub-section (2) of section 10], vacate their offices :

³Provided further that the tenure of office of the Chairman of the former Board shall continue until that office is vacated in the manner provided by section 29AA.

⁴(2) The State Government may, if it considers it necessary so to do, by notification extend or modify any such period of supersession.

Conse-
quences
of super-
session.

⁵132. When a District Board or Local Board ⁶[or Union Committee] is superseded under the last preceding section, the following consequences shall ensue—

(a) all members constituting the District Board or Local Board ⁶[or Union Committee] shall, from the date of the notification, vacate their offices as such members.

(b) all powers and duties of the District Board or Local Board ⁶[or Union Committee] may, until such District Board or Local Board ⁶[or Union Committee] is re-constituted, be exercised and performed by such person or persons as the ⁷[State Government] may from time to time appoint in that behalf ;

Conse-
quences of
super-
session.

⁵132. When a District Board or Local Board is superseded under the last preceding section, the following consequences shall ensue—

(a) all members constituting the District Board or Local Board, shall, from the date of the notification, vacate their offices as such members ;

(b) all powers and duties of the District Board or Local Board may until, such District Board or Local Board is re-constituted, be exercised and performed by such person or persons as the ⁷[State Government] may from time to time appoint in that behalf ;

¹See foot-note 7 on page 597, *ante*.

²Inserted by sec. 9 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1947 (West Ben. Act LX of 1947).

³See foot-note 9 on page 690, *ante*.

⁴See foot-note 2 on page 690, *ante*.

⁵See foot-note 1 on page 690, *ante*.

⁶The words "or Union Committee" in sec. 132 were inserted for Western Bengal by Bengal Act V of 1908, sec. 58(1)—See also foot-note 2 on page 690, *ante*.

⁷See foot-note 8 on page 690, *ante*.

⁸See foot-note 5 on page 596, *ante*.

(Part IV.—Control.—Section 133.)

(c) when a District Board is superseded, all property vested in it shall, pending the reconstitution of the Board, be ¹[vested in the State Government].

On the expiration of the period of supersession specified in the notification, the Board ²[or Committee] shall be re-established, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

* * * *

(c) when a District Board is superseded, all property vested in it shall, pending the reconstitution of the Board, be ¹[vested in the State Government].

On the expiration of the period of supersession specified in the notification, the Board shall be re-established, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

Disputes between two or more Union Committees when to be referred to District Board or Local Board.

⁴ ⁵ 133. (1) If a dispute arises between two or more Union Committees which are subordinate to the same District Board, or which have been declared by any order under section 119 to be, for the purposes of this section, subordinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be * * * *

¹The words "vested in His Majesty for the purposes of the Province" were first substituted for the words "vested in the Local Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the words "the State Government" were substituted for the words "His Majesty for the purposes of the Province" by para. 3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

²The words "or Committee" in sec. 132, were inserted for Western Bengal by Bengal Act V of 1908, sec. 58(2). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

³The last paragraph of section 132 which was in force in non-union board areas was repealed by sec. 66 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁴Section 133 is repealed in areas in which Bengal Act V of 1919 is in force—see item No. 20 of Sch. I to that Act.

⁵This section 133 was substituted for the original sections 133 and 134 for Western Bengal by Bengal Act V of 1908, sec. 59. See also foot-note 2 above.

⁶The words "and the decision of Board thereon shall be final and binding" were repealed by sec. 67 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.)

(Part IV.—Control.—Sections 134—136.)

¹[The decision of a District Board on any such matter shall be final and binding; but when such reference is made to a Local Board, if the Union Committees concerned in the matter are not satisfied with the order passed by the Local Board, they may appeal against the order to the District Board, and the decision of the District Board in any such case shall be final and binding.]

(2) If a dispute arises between two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding.

134. (*Disputes between two or more Union Committees under the authority of different Local Boards to be referred to District Board when Local Boards cannot agree.*)—Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908), sec. 59. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), sec. 3 and Sch. I

135. If a dispute arises between two or more Local Boards within the area under the authority of a District Board, the matter shall be referred to the District Board, and the decision of such District Board upon the matter so referred shall be final and binding.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Commissioner² and the decision of the Commissioner³ upon the matter so referred shall be final and binding :

* * * * *

¹This paragraph was added by section 67 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²This word "Commissioner" was substituted for the words "Magistrate of the district" by sec. 68 (a), *ibid.*

³This word "Commissioner" was substituted for the word "Magistrate" by section 68(a), *ibid.*

⁴The proviso to this section was repealed by section 68(b), *ibid.*

Disputes between two or more Local Boards to be referred to District Board.

Disputes between municipal authorities and local authorities in the same district to be referred to Commissioner.

[Ben. Act III]

(Part IV.—Control.—Sections 137, 138.)

Decision of disputes not otherwise provided for.

137. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authorities, or between a local authority or authorities and a municipal authority or authorities, the matter shall be referred—

(a) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts ; and

(b) to the ¹[State Government], if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioners, or of the ¹[State Government], as the case may be, upon the matter so referred shall be final and binding.

Powers of State Government to make rules.

138. ²It shall be lawful for the ²[State Government] to make rules consistent with this Act, for any District Board or Local Board or Union Committee for the purposes of—

³(a) determining the mode and time of appointment or election of members of Boards and Committees, the term of office and the qualifications and disqualifications of such members, and the qualifications and disqualifications ⁴[of voters (except

138. ²It shall be lawful for the ²[State Government] to make rules consistent with this Act, for any District Board or Local Board for the purposes of—

³(a) determining the mode and time of appointment or election of members of Boards and Committees, the term of office and the registration of voters and candidates, and generally for regulating all elections under this Act⁷* * * ;

Powers of State Government to make rules.

¹See foot-note 5 on page 596, ante.

²The first paragraph of section 138 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

³Clause (a) of section 138 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

⁴These words were inserted by sec. 9(1) of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936).

⁵The first paragraph of section 138 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 21(i) of Sch. I to that Act.

⁶Clause (a) of section 138 is in force in this form in areas in which Bengal Act V of 1919 is in force—see items Nos. 21(ii) and 21 (3) of Sch. I to that Act.

⁷The words “and determining the authority who shall decide disputes relating to such elections” were omitted by s. 5(a) of the Bengal Local Self-Government (Amendment) Act 1941 (Ben. Act III of 1941).

of 1885.]

(Part IV.—Control.—Section 138.)

in elections referred to in section 36D) and candidates] and the registrations of voters and candidates, and generally for regulating all elections under this Act ^{1*} * *

and in the case of District Boards the qualifications and disqualifications of members ;

- ^a[(*aaa*) determining the procedure to be followed by a Judge under section 18C in inquiring into election petitions;]
- (*b*) regulating the conduct of proceedings of Boards and Committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the language in which business shall be transacted ;
- (*c*) fixing the time within which a Chairman or Vice-Chairman may be elected ;
- (*d*) regulating the powers of District Boards to transfer property ;
- (*e*) regulating the powers of Boards and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;
- (*f*) determining ⁴[intermediate] offices, if any, through which correspondence between Boards and Committees, or members of Boards and Committees, and the ⁶[State Government] or ⁹[its] officers, shall pass ;
- (*g*) prescribing the qualifications of candidates for employment under section 33 ⁷[and declaring what circumstances shall be a disqualification for continuance of employment under that section] ⁸[and regulating appeals from dismissed officers under the said section] ;

¹See foot-note 7 on page 694, *ante*.

^aClause (*aa*) was omitted by sec. 9 of the Bengal Local Self-Government (West Bengal Amendment) Act, 1950 (West Ben. Act XXVII of 1950).

⁴This clause was inserted by sec 5(*b*) of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

⁴The word "intermediate" was substituted for the word "immediate" for Western Bengal, by Bengal Act V of 1908, sec. 60(2). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

⁵See foot-note 5 on page 596, *ante*.

⁶See foot-note 6 on page, 658, *ante*.

⁷These words were added, for Western Bengal, by Bengal Act V of 1908, sec. 60(3)—see also foot-note 4 above.

⁸These words were added by sec. 69 (1) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

(Part IV.—Control.—Section 138.)

¹[(gg) prescribing the period of twelve months referred to in ²[sections 7A and 36E] ;

(h) prescribing the times for holding meetings and for submitting statements, estimates, reports or accounts under sections 46 and 47 ;

³(h1) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same ;

⁴(h3) determining the class of capital works to which section 53AA shall apply, and regulating the maintenance of the accounts relating to the loans fund ;

(i) prescribing forms for statements, estimates and accounts and regulating the keeping, checking and publication of such accounts and the manner of periodical audit under sections 54 and 55 ;

⁵(i1) prescribing the rates of daily halting allowances for members of the Finance Committee under section 55 and the conditions subject to which such allowances shall be made ;

(j) regulating the maintenance and management of schools under sections 62, 63 and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to District Boards under section 65 ;

⁷(j1) prescribing the conditions subject to which grants-in-aid may be made under section 63 or section 64A ;

¹Clause (gg) was inserted by sec. 9 (2) of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936).

²Substituted by sec. 2 and the First Sch. of the West Bengal Repealing and Amending Act, 1949 (West Ben. Act XIX of 1949).

³Clause (h1) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 60(4). That Act was extended to Eastern Bengal, by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴Clause (h2) was repealed by sec. 69(2) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁵This clause (h3) was inserted by section 69(3), *ibid.*

⁶This clause (i1) was inserted by section 69(4), *ibid.*

⁷Clause (j1), (j2) and (j3) were inserted for Western Bengal, by Bengal Act V of 1908, sec. 60(5)—see also foot-note 8 above.

(Part IV.—Control.—Section 138.)

- ¹(j2) regulating the provision, maintenance and management of students' hostels under section 64A ;
- ¹(j3) prescribing the powers and duties of Education Committees, and regulating the removal of members from office ;
- ²(j4) regulating the grant of scholarships established under section 64A ;
- (k) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district, ³[the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination] ;
- (l) prescribing the procedure to be adopted in the appointment of the Engineer to the District Board under section 84, and regulating the performance and exercise of the duties and powers of such Engineer and of the Inspector of Local Works under sections 85 and 123, respectively ;
- (m) regulating the submission for approval of plans, designs, specifications and estimates under section 86, ⁴[and prescribing conditions precedent to the making of any contribution under section 79] ;
- ⁵(m1) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalized value of the estimated cost to the District Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or foot-ways require periodical renewal ;
- ⁵(m2) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts ;

¹See foot-note 7 on page 696, *ante*.

²Clause (j4) was inserted by Bengal Act I of 1914, sec. 5 and Sch. III.

³These words were added, for Western Bengal, by Bengal Act V of 1908, sec. 60(6). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴These words were added, for Western Bengal, by Bengal Act V of 1908, sec. 60(7)—See also foot-note 3 above.

⁵Clauses (m1) and (m2) were inserted for Western Bengal, by Bengal Act V of 1908, sec. 60(5)—see also foot-note 3 above.

(Part IV.—Control.—Section 138.)

(n) regulating the duties and powers of District Boards¹[and Sanitation Committees] in regard to sanitation ;

²(n1) regulating the duties of the Public Health Committee under section 91, and the measures to be taken by the District Board under section 91A to ensure the public health ;

§ *

⁴(o1) regulating the duties of District Boards in regard to the relief of famine, serious distress or scarcity ;

(p) regulating the establishment and maintenance of staging bungalows and *sarais*, the holding of fairs and exhibitions ⁵[for agricultural purposes and the granting of licenses for holding fairs or *melas* and fixing the fees in respect thereof, the standard of sanitary arrangements in respect of *hats* or markets], the offer of rewards ⁶[for information of the outbreak of dangerous epidemic diseases and], for the destruction of noxious animals, ⁷[the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses and the breeding of mules, the making of grants-in-aid under clause (3d) of section 100 of this Act], and the carrying out of ⁸[or contributing towards] any other work likely to promote the health, comfort or convenience of the public ;

¹These words were inserted, for Western Bengal, by Bengal Act V of 1908, sec. 60(9). That Act was extended to Eastern Bengal by Bengal Act I of 1913, sec. 8 and Sch. I.

²This clause (n1) was inserted by sec. 69(5) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

³Clause (o) was omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴Clause (o1) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 60(10)—see also foot-note 1 above.

⁵These words were inserted by sec. 69(6) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶These words were inserted by section 69(6), *ibid.*

⁷These words were inserted for Western Bengal, by Bengal Act V of 1908, sec. 60(11)—see also foot-note 1 above.

⁸These words were inserted by sec. 69(6) of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

of 1885.]

(Part IV.—Control.—Section 138.)

¹(q) regulating the powers of Union Committees in regard to ²[primary schools and] dispensaries under sections 112 and 113 ³[section 113] ;

¹ ⁴(q1) regulating the powers and duties of Union Committees in regard to sanitation, conservancy and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions ;

(r) providing for the appointment and payment of auditors of the accounts of Boards and Committees ;

(s) affording guidance to District Boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts ; and

⁵(t) generally, determining the relations between District Boards, *Local Boards and Union Committees*, and for the guidance of Boards and Committees and

⁶(t) generally, determining the relations between District Boards *or* Local Boards and for the guidance of Boards and Committees and Government officers in all matters

¹Clauses (q) and (q1) of section 138 are repealed in areas in which Bengal Act V of 1919, is in force.

²The words "primary schools and" will be repealed when the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930), comes into force.

³The words and figures "section 113" will be substituted for the words and figures "sections 112 and 113" when the Bengal (Rural) Primary Education Act, 1930 (Ben. Act VII of 1930), comes into force.

⁴Clause (q1) was inserted, for Western Bengal, by Bengal Act V of 1908, sec. 60 (12). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁵Clause (t) of section 138 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

⁶Clause (t) of section 138 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 21(3) of Sch. I to that Act.

(Part IV.—Control.—Sections 138A, 139.)

Government officers
in all matters con-
nected with the
carrying out of the
provisions of this
Act ;

connected with the
carrying out of the
provisions of this
Act ;

and may from time to time repeal or alter such rules.

Rules made under this section shall be published in such manner as the ¹[State Government] may direct, and shall thereupon have the force of law ;

and no rules under clause (a) shall come into operation until three months after they have been published as aforesaid.

² ³In making any rule under clause (a) of this section, the ¹[State Government] may provide that a breach of the same shall be punished with fine which may extend to ten rupees.

Rules as to
census.

⁴138A. The Central Government may, after previous publication, make rules regulating the duties of District Boards in regard to taking a census.

By-laws.

Power of
District
Board and
Local
Board to
make by-
laws.

139. Every District Board or Local Board empowered in this behalf by the ¹[State Government] may, ²[subject to the control of the ¹[State Government]] make by-laws for carrying out all or any of the purposes of this Act.

By-laws made under this section shall have the force of law when ³[confirmed by the Commissioner] and published in such manner and for such time as the ¹[State Government] may direct.

¹See foot-note 5 on page 596, *ante*.

²The whole of the last paragraph of section 138 is repealed in areas in which Bengal Act V of 1919 is in force.

³This clause was added, for Western Bengal, by Bengal Act V of 1908, sec. 60(13). That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴Section 138A was inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵These words were inserted for Western Bengal, by Bengal Act V of 1908, sec. 61(a)—see also foot-note 3 above.

⁶These words were substituted for the words "confirmed by the Lieutenant-Governor" for Western Bengal, by Bengal Act V of 1908, sec. 61(b)—see also foot-note 3 above.

of 1885.]

(Part IV.—Control.—Sections 140—142.)

0. In making a by-law under the last preceding section a Board may provide that a breach of the same shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

Penalty for infringement of by-laws.

141. Prosecutions under this Act for breach of by-laws may be instituted by any Board, or by any person authorised by the Board in this behalf.

Prosecutions.

Act V of 1898.

A Judge or Magistrate shall not be deemed to be, within the meaning of ¹[section 556 of the Code of Criminal Procedure, 1898], a party to, or personally interested in, any case under this section merely because he is a member of the Board.

Miscellaneous Provisions.

Liability of members of Boards

²142. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the District Board, ³[*Local Board*] or *Union Committee*, unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a *Union Committee, Local Board or District Board*; and a suit for compensation for the same may be instituted against him, in such Court as the ⁴[State Government] directs, by the District Board with the sanction of the ⁴[State Government] or by the ⁵[State Government].

⁶142. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the District Board or ³[*Local Board*], unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a *District Board or Local Board*; and a suit for compensation for the same may be instituted against him, in such Court as the ⁴[State Government] directs, by the District Board with the sanction of the ⁴[State Government] or by the ⁵[State Government].

Liability of members of Boards and Union Committees.

¹These words and figures were substituted for the words and figures "section 555 of the Code of Criminal Procedure, by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Section 142 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

³The words "*Local Board*" were inserted, for Western Bengal by Bengal Act V of 1908, sec. 62. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3 and Sch. I.

⁴See foot-note 5 on page 596, *ante*.

⁵The words "*Provincial Government*" were first substituted for the words "*Secretary of State for India in Council*" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "*State*" was substituted for the word "*Provincial*" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁶Section 142 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 22 of Sch. I to that Act.

[Ben. Act III]

(Part IV.—Control.—Sections 142A—144.)

Recoveries.

142A. Notwithstanding anything contained in any other law, any sum due to the District Board under the provisions of this Act, on account of fees (other than school fees), rents payable for leases of land, pounds or ferry tolls or for any other purpose, all charges due to the District Board on account of loans made to private persons under this Act, and all payments falling due to it under any registered agreement or statutory enactment except loans to local bodies or fines imposed by the criminal courts, shall be recoverable in the manner provided for the recovery of a public demand.

Procedure for making rules and by-laws.

143. The ¹[State Government], before making any rules under section 138, and a District Board or Local Board, before making any by-laws under section 139, shall publish, in such manner as the ²[State Government] deems sufficient for giving information to persons interested, the proposed rules or by-laws, together with a notice specifying a date on or after which the same will be taken into consideration ; and shall before making such rules or by-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or by-law shall be published, in the ³[Official Gazette] in English, and in such other language as the ⁴[State Government] directs, and such publication shall be evidence that the rule or by-law has been made as required by this section.

Penalty on member, officer or servant being interested in contracts made with a local authority.

144. If any member of a *local authority*, or any officer or servant maintained by or employed under a *local authority*, has, directly or indirectly, any share or interest in any work done by order of the *local authority*, of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such *local authority*, he shall be liable on conviction before a

144. If any member of a *District Board or Local Board* or any officer or servant maintained by or employed under a *District Board or Local Board* has, directly or indirectly, any share or interest in any work done by order of the *District Board or Local Board* of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such

Penalty on member, officer or servant being interested in contracts made with District Board or Local Board.

¹This section was inserted by sec. 70 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot note 5 on page 596, *ante*.

³See foot-note 7 on page 597, *ante*.

⁴Sections 144 and 145 are in force in this form in areas in which Bengal Act V of 1919 is not in force.

⁵Sections 114 and 145 are in force in this form in areas in which Bengal Act V of 1918 is in force—see items Nos. 23 and 24 of Sch. I to that Act.

of 1885.]

(Part IV.—Control.—Section 144.)

Criminal Court to a fine which may extend to five hundred rupees ;

District Board or Local Board, he shall be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

(a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the *local authority* ; or

(a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the *District Board or Local Board* ; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the *local authority* may be inserted ; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the *District Board or Local Board* may be inserted ; or

(c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the *local authority*.

(c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the *District Board or Local Board*.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the *local authority* in any matter relating to a contract or agreement between the *local authority* and such company or the manager or publisher of such newspaper.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the *District Board or Local Board* in any matter relating to a contract or agreement between the *District Board or Local Board* and such company or the manager or publisher of such newspaper.

¹Nothing in this section shall apply to the payment of fees to

¹Nothing in this section shall apply to the payment of fees to

¹This clause was added to sec. 144, for Western Bengal, by Bengal Act V of 1908, sec. 63. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 8 and Sch. I.

[Ben. Act III]

(Part IV.—Control.—Sections 145, 146.)

a legal practitioner for services rendered by him in his professional capacity. a legal practitioner for services rendered by him in his professional capacity.

Power to make compensation out of the *Local Fund*.

¹145. Every local authority may make compensation out of the *District or Union Funds* respectively to any persons sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

²145. The *District Board* may make compensation out of the *District Fund* to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

Power to make compensation out of the *District Fund*.

No action to be brought against the members of Boards and Committees or their officers until after one month's notice of cause of action.

³146. No suit shall be brought against the members of any *District Board, Local Board or Union Committee*, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board or Committee, and also (if the suit is intended to be brought against any officer of the said Board or Committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit ;

⁴146. No suit shall be brought against the members of any *District Board, Local Board* or any of their officers or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board, and also (if the suit is intended to be brought against any officer of the said Board or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit ;

No action to be brought against the members of Boards or their officers until after one month's notice of cause of action.

and, unless such notice be proved, the Court shall find for the defendant.

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall,

If any such person to whom any such notice is given shall,

¹ See foot-note 4 on page 702, *ante*.

² See foot-note 5 on page 702, *ante*.

³ Section 146 is in force in this form in areas in which Bengal Act V of 1919 is not in force.

⁴ Section 146 is in force in this form in areas in which Bengal Act V of 1919 is in force—see item No. 25 of Sch. I to that Act.

of 1885.]

(Part IV.—Control.—Sections 147—149.—The First Schedule.)

before suit is brought, tender before suit is brought, tender
sufficient amends to the plaintiff, sufficient amends to the plain-
such plaintiff shall not recover. tiff, such plaintiff shall not
recover.

Act XLV
of 1860.

¹147. Every Chairman and Vice-Chairman of a District or Local Board, every other member of a District Board and every officer and sarvant maintained by or employed under a District or Local Board, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman,
Vice-
Chairman,
etc., of
Boards to
be deemed
public
servants.

148. [Bar to suits on election disputes.]—Rep. by sec. 6 of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

IX of 1908.

¹149. Notwithstanding anything contained in the Indian Limitation Act, 1908, the period of limitation for the institution of any suit by or on behalf of a District Board for the possession of any immovable property vested in the Board from which it has been dispossessed or of which it has ceased to have possession shall be sixty years from the date of dispossession or discontinuance.

Period of
limitation
for suits
by District
Board in
respect of
immovable
property.

THE FIRST SCHEDULE.

(See section 2.)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of State ¹ Public Works.	Sections 110 to 181, both inclusive. Section 182, clauses (a), (b), (c), (e), (g) and (h).

¹Section 147 to 149 were inserted by sec. 71 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

²See foot-note 8 on page 600, ante.

*(The Second Schedule)***THE SECOND SCHEDULE.***(See section 2.)***AMENDMENT OF ENACTMENT.**

Number and year.	Subject.	Extent of amendment.
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of State ¹ Public Works.	<p data-bbox="567 646 1078 713">In section 4, the following definitions shall be substituted for the definition of "the Committee" :—</p> <p data-bbox="567 731 1078 820">" 'District Board' means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885."</p> <p data-bbox="567 838 1078 928">" 'District Fund' means the Fund formed under section 52 of the Bengal Local Self-Government Act of 1885."</p> <p data-bbox="567 946 1078 1035">In section 9, the words "and, together with other assets of such fund, shall be applied to the purposes mentioned in section 2[109]" shall be omitted.</p> <p data-bbox="567 1053 1078 1098">The following section shall be substituted for section 38 :—</p> <p data-bbox="567 1116 1078 1295">"38. The road cess for each year shall be assessed and levied at such rate as shall be levied how provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board."</p> <p data-bbox="567 1313 1078 1358">In section 40, omit the words "as provided in section 155."</p> <p data-bbox="567 1376 1078 1483">In sections 82 and 83, the words "District Road Funds" and "District Road Fund" shall be substituted for the words "Committees" and "Committee" respectively.</p> <p data-bbox="567 1510 1078 1573">In section 98, the words "District Road Fund" shall be substituted for the words "District Road Committee."</p>

¹ See foot-note 8 on page 600, *ante*.

*The figures "109" were substituted for the figures "111" by sec. 8 and the Second Sch. of the Amending Act, 1908 (I of 1908).

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

(See section 2.)

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of State ¹ Public Works.	<p>In section 108, the words "and of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed" shall be omitted.</p> <p>The following new section shall be substituted for section 109 :—</p> <p>"109. The District Road Fund of every district shall be applicable to the following objects and in the following order :—</p> <p><i>Firstly.</i>—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.</p> <p><i>Secondly.</i>—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.</p> <p>And the balance, after payment of such expenses, shall be credited to the District Fund of the district ²[and shall be applicable to the following objects, and in the following order, namely :—</p> <p>(a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable and the repayment of such loans ;</p>

¹ See foot-note 8 on page 600, *ante*.

² This portion within square brackets in the Second Schedule was added for Western Bengal, by Bengal Act V of 1908, sec. 64. That Act was extended to Eastern Bengal by Bengal Act I of 1914, sec. 3, Sch. I.

*(The Second Schedule.)*THE SECOND SCEDULE—*concl'd.**(See section 2.)*

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.
Bengal Act IX of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of State ¹ Public Works.	<p>(b) the payment of the percentage referred to in clause <i>Thirdly</i> of section 53 of the said Act ;</p> <p>(c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause <i>Fourthly</i> of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts ;</p> <p>(7) the payment of such of the expenses referred to in clause <i>Fifthly</i> of section 53 of the said Act as are incurred in improving the means of communication within the district or between the district and other districts, or in carrying out the provisions of section 79 of the said Act ;</p> <p>(e) the payment of the expenses referred to in clause <i>Seventhly</i> of section 53 of the said Act ; and</p> <p>(f) the making of investments referred to in clause <i>Eighthly</i> of the said section 53.]”</p>

¹See foot-note 8 on page 600, *ante*.

of 1885.]

(The Third and Fourth Schedules.)

¹THE THIRD SCHEDULE.

²(See sections 9, 11, 13, 14 and 15.)
Districts ³* ⁴** ⁵* ⁶* ⁷*

⁴[All district of West Bengal other than Jalpaiguri and Darjeeling.]

⁵THE FOURTH SCHEDULE,

(See sections 5, 15A, ⁶[18D and 18E].

Corrupt practices.

The following shall be deemed to be corrupt practices for the purposes of this Act :—

PART I.

1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

- (a) a person to stand or not to stand as, or to withdraw from being, a candidate, or
 - (b) an elector to vote or refrain from voting at an election,
- or as a reward to—

- (a) a person for having so stood or not stood or for having withdrawn his candidature, or
- (b) an elector for having voted or refrained from voting.

¹This schedule is repealed in areas in which Bengal Act V of 1919 is in force—see item No. 26 of Sch. I to that Act.

²The figures and word “9, 11, 13, 14 and 15” were substituted for the figures and the word “6 and 9” by sec. 10(a) of the Bengal Local Self-Government (Amendment) Act, 1936 (Ben. Act XIV of 1936).

³The words “in every Subdivision of which a Local Board shall be established” were omitted by sec. 10(b), *ibid.*

⁴Substituted for the list of districts by para. 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵This Schedule was added by sec. 72 of the Bengal Local Self-Government (Amendment) Act, 1932 (Ben. Act XXIV of 1932).

⁶The word, figures and letters “18D and 18E” were substituted for the figures and letter “18B” by sec. 7 of the Bengal Local Self-Government (Amendment) Act, 1941 (Ben. Act III of 1941).

*(The Fourth Schedule.)*THE FOURTH SCHEDULE—*contd.**(see sections 5, 15A, ¹[18D and 18E.]**Corrupt practices.*

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward: but it does not include the payment of any expenses *bona fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by this Act.

Undue
influence.

2. (1) Any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent, by any of the means hereafter specified, with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector.

(2) The means above alluded to are—

- (a) any violence, injury, restraint, or fraud and any threat thereof;
- (b) any threat to a person or inducement to a person to believe that he or any person in whom he is interested will become or be rendered an object of divine displeasure or spiritual censure;
- (c) any threat of social boycott;

but do not include any declaration of public policy or promise of public action.

Person-
ation.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

Publica-
tion of
false state-
ments.

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice such candidate's election.

of 1885.]

(The Fourth Schedule.)

THE FOURTH SCHEDULE—*concl'd.*

(See sections 5, 15A, ¹[18D and 18E].)

Corrupt practices.

PART II

1. Any act specified in Part I, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent. Acts under. Part I.

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election. Personation.

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward,— Receipt of gratification.

(a) by a person to stand or not to stand as, or to withdraw from being, a candidate ; or

(b) by any person whosoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

4. Any payment or promise of payment to any person on account of the conveyance of any elector to or from any place for the purpose of recording his vote : Payment for conveyance.

Provided that nothing contained in these rules shall prevent a conveyance being hired by an elector, or by several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

5. The hiring, using, or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public. Hiring of liquor shops.

6. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof. Issue of circulars, etc., without name.

¹See foot-note 6 on page 709, *ante*.

Bengal Act I of 1887
(THE CALCUTTA SURVEY ACT, 1887.)
Contents.

PREAMBLE.

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(Commencement.) Repealed.
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5. Superintendent to give notice before entering on land.
6. Persons summoned failing to appear are bound by the survey.
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8. Procedure in case of dispute as to boundaries.
9. Power of Assistant Superintendent to enforce attendance of witnesses.
10. After inquiry, Assistant Superintendent to record his decision.
11. An appeal shall lie to the Board of Revenue.
12. Power to refer to arbitration.
13. On failure of an arbitrator to act, another may be appointed.
14. Appointment of an umpire.
15. Power to enforce attendance of witnesses in an arbitration.
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18. Superintendent may erect boundary-marks.
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22. No suit shall lie unless brought within one year.
23. State Government may make rules under the Act.
24. How notices may be served.
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26. Proceedings not to be affected by informality.
27. Power of State Government to extend this Act to the Suburbs.

Bengal Act I of 1887

(THE CALCUTTA SURVEY ACT, 1887.)¹

SUPPLEMENTD ...	Ben. Act III of 1884.
REPEALED IN PART	Act I of 1903.
AMENDED ...	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">...</div> <div style="font-size: 3em; line-height: 1;">{</div> <div> Ben. Act IV of 1894. Ben. Act I of 1939. </div> </div>
ADAPTED ...	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">...</div> <div style="font-size: 3em; line-height: 1;">{</div> <div> (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950. </div> </div>

(2nd February, 1887.)

An Act to provide for a Survey of the Town of Calcutta.

Whereas it is expedient to provide for the survey and demarcation of land in the town of Calcutta ; Preamble.

It is hereby enacted as follows :—

1. This Act shall be called the Calcutta Survey Act, 1887 ; Short title.
(Commencement.)—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903.)

It extends to the town of Calcutta within the local limits of the ordinary original civil jurisdiction of ²[the High Court at Calcutta] Local extent.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

“survey” includes identification of boundaries and all other operations antecedent to, or connected with, survey : “survey.”

“Superintendent” means the Superintendent of Survey under this Act : “superintendent.”

“land” includes anything attached to the earth or permanently fastened to anything attached to the earth : “land.”

“premises” means any land described as such in the registers of the Corporation of the town of Calcutta or as a holding in the registers of the Calcutta Collectorate : “premises.”

“owner” includes— “owner.”

(a) the person having permanent interest in any land or permits ;

(b) an agent of, or manager on behalf of, such person ;

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1886, Pt. IV, page 141 ; and for Proceedings in Council, see *ibid.* 1886, Supplement, pages 2481, 2531, *ibid.* 1887, Supplement, pages 91 and 98.

²Substituted for the words “Her Majesty’s High Court of Judicature at Fort William in Bengal” by para. 8 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.

(Sections 3—6.)

(c) a trustee of such person ;

(d) a body corporate in which land is vested by operation of Statute.

State
Govern-
ment may
order
survey and
appoint
Superin-
tendent.

3. The ¹[State Government] may, whenever it thinks fit, order, by a notification in the ²[Official Gazette], that a survey shall be made of the lands situated in the town of Calcutta, and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey.

The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

Superin-
tendent
may enter
upon
land.

4. The Superintendent of Survey shall, for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act :

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

Superin-
tendent
to give
notice
before
entering
on land.

5. Before entering on any land or premises for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owners of conterminous lands or premises, calling upon them to attend either personally or by agent on such land or premises, before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purposes of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act ; and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

Persons
summoned
failing to
appear are
bound by
the survey.

6. If, after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed

¹The words "Provincial Government" were first substituted for the words "Local Government," by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1960.

²These words were substituted for the words "Calcutta Gazette" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1887.]

(Sections 7—12.)

with the survey ; and the person who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

7. If in the course of survey it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent shall cause an inquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

In case of dispute, Assistant Superintendent to hold an inquiry.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorized by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him, in person or by an authorized agent, on a specified day, and to produce evidence of possession of the land in dispute.

Procedure in case of dispute as to boundaries.

The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.

9. For the purposes of the inquiry aforesaid the Assistant Superintendent shall have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and in the same manner as is provided in the case of a Court under the Code of Civil Procedure, ¹[1908].

Power of Assistant Superintendent to enforce attendance of witnesses.

10. After the inquiry has been completed, the Assistant Superintendent shall pass an order in writing defining clearly the subject of dispute, and shall record his decision, and the reasons for such decision.

After inquiry, Assistant Superintendent to record his decision.

11. An appeal shall lie from any order passed by an Assistant Superintendent under the last preceding section to the Board of Revenue, or to such other authority as the ²[State Government] may, by notification in the ³[*Official Gazette*] appoint in this behalf if preferred within thirty days from the date of such order.

An appeal shall lie to the Board of Revenue.

12. In every case of disputed boundaries the Assistant Superintendent authorized to hold the inquiry may, on the

Power to refer to arbitration.

Act V of 1908.

¹This figure was inserted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 1 on page 716, *ante*.

³See foot note 3 on page 716, *ante*.

(Sections 13—17.)

written application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award :

Provided that, if it appears to the Assistant Superintendent that the¹[State Government] or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

On failure of an arbitrator to act another may be appointed.

13. Where an arbitrator nominated by a party refuses to act or becomes incapable of acting by reason of death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent, nominate another arbitrator ; and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination ; and the arbitrator so appointed may thereupon proceed with the inquiry.

Appointment of an umpire.

14. If the arbitrators differ, the award shall be in accordance, with the opinion of the majority, if they are equally divided in opinion, it shall be competent to them or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire determining the boundaries in dispute shall have the force of an award of the arbitrators.

Power to enforce attendance of witnesses in an arbitration.

15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in inquiries held by himself.

On failure to make an award, Assistant Superintendent may supersede the arbitration.

16. If the arbitrators or the umpire appointed under the preceding section fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the inquiry.

The award.

17. The award shall be made in writing, and shall be signed by the persons making it, and shall be filed in the office of the Superintendent, with any evidence which may have been taken by the arbitrators or the umpire.

The Superintendent shall lay down the boundaries in accordance with the award.

¹See foot-note 1 on page 716, *ante*.

of 1887.]

(Sections 18—23.)

18. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

Superintendent may erect boundary-marks.

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

Maintenance of temporary boundary-marks.

20. After the survey of any part of the town has been completed, the Superintendent shall deposit all maps, field-books, proceedings, awards and all other documents connected with the survey of such part in the Municipal Office of the Corporation of Calcutta.

All documents connected with the survey to be sent to the Municipal office.

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the ¹[*Official Gazette*], inspect such documents free of charge.

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent, or by such officer as the ²[State Government] may appoint in this behalf.

21. After all objections lodged under the last preceding section have been decided, the ³[State Government] shall, if it approves the survey, signify such approval by notification in the ¹[*Official Gazette*].

Approval of the survey by the State Government to be notified.

22. No suit shall lie to set aside any demarcation of boundaries made under the provisions of this Act unless brought within one year from the date of the notification mentioned in the last preceding section.

No suit shall lie unless brought within one year.

23. The ³[State Government] may lay down rules not being inconsistent with this Act to provide for the preparation of maps and for the collection and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

State Government may make rules under the Act.

¹ See foot-note 2 on page 716, *ante*.

² See foot-note 1 on page 716, *ante*.

[Ben. Act 1 of 1887.]

(Sections 24—27.)

How
notices
may be
served.

24. Every notice in and by this Act required to be served on any person may be served :—

(a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family, and by fixing a copy on some conspicuous part of the land or premises to which it relates ; or

(b) by sending a registered cover through the post office containing such notice directed to the said person at the place where he resides :

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

Penalty for
failure to
comply with
requisition
in notice.

25. Whoever fails to comply with a requisition contained in any notice duly served under section 5 or section 8 of this Act shall be liable to a fine not exceeding one hundred rupees.

Proceedings
not to be
affected by
informality.

26. No proceedings under this Act shall be affected by reason of any informality, provided the directions of this Act be in substance and effect complied with ; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as owner in the Calcutta Collectorate or in the registers of the Corporation of the town of Calcutta.

Power of
State
Govern-
ment to
extend this
Act to the
Suburbs.

27. The ¹[State Government] may extend the whole or any of the provisions of this Act to the whole or any part of the Suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the town of Calcutta.

¹ See foot-note 1 on page 716, ante.

Bengal Act II of 1889

(The Private Fisheries Protection Act, 1889.)¹

SUPPLEMENTED

Act IV. of 1897.

AMENDED . .

. . { Ben. Act I of 1939.
West Ben. Act XXI of 1959.

(26th June, 1889.)

An Act for the protection of the right of fishing in private waters.

Whereas it is expedient to provide for the protection of private rights of fishery : Preamble.

It is hereby enacted as follows :—

1. This Act may be called the Private Fisheries Protection Act, 1889. Short title.

2. In this Act—

Interpreta-
tion clause.

“fish” includes shell-fish and turtles ;

“fish.”

“fixed engine” means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way ;

“fixed
engine.”

“private waters” means waters—

“private
waters.”

(a) which are the exclusive property of any person : or

(b) in which any person has an exclusive right of fishery,

* * * *

“navigable river” includes a river which is navigable only during certain periods of the year. “navigable
river.”

3. Any person who—

Penalties.

(a) fishes in any private waters, not having a right to fish therein,

(b) erects, places, maintains or uses any fixed engine in private waters, or puts, ‘[or causes to be put therein any matter or thing] for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs ;

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees ;

and for a subsequent offence with imprisonment which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both :

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1889, Pt. IV, page 6 ; for Report of Select Committee, see *ibid.*, page 32 ; and for Proceedings in Council, see *ibid.*, Supplement, pages 658, 714, 947 and 960.

LOCAL EXTENT.—Since this Act contains on local extent clause, it must be taken to extend to the whole of the former Province of Bengal.

²The words “and in which fish are not confined but have means of ingress or egress” were omitted by sec. 2(1) of the Private Fisheries Protection (Amendment) Act, 1959 (West Ben. Act XXI of 1959).

³This definition was added by sec. 2(2), *ibid.*

⁴Substituted for the words “or knowingly permits to be put therein any matter” by sec. 8, *ibid.*

[Ben. Act II of 1889.]

(Sections 4—6.)

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a *bona fide* claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeiture
of fixed
engine.

4. (1) Any fixed engine erected, placed, maintained or used ¹[or any matter or thing put or caused to be put] in contravention of the last preceding section ²[may be forfeited to the State Government or otherwise disposed of], and any fish taken by means of such engine, or otherwise in contravention of this Act, ³[shall be sold and the sale proceeds shall be paid to the person to whom the right of fishery in the private waters belongs, under orders of the court trying any offence for such contravention.]

Removal
of fixed
engine.

(2) And such fixed engine ⁴[matter or thing and any fish taken by means thereof] may be removed or taken possession of ⁵[by any Fishery Officer not below the rank of an Assistant Fishery Officer, or] by the Magistrate of the district, or such person as he empowers in this behalf.

Entry
upon the
land of an-
other or
upon
private
waters
with intent
to commit
an offence.

5. Whoever ⁶[enters upon private waters or upon land in possession of any person abutting upon such waters] with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

Offences
under this
Act con-
sidered
"cognis-
able
offences."

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure, ⁷[1898.]

Act V of
1898.

¹Inserted by sec. 4(1) (i) of the Private Fisheries Protection (Amendment) Act, 1959 (West Ben. Act XXI of 1959).

²Inserted by sec. 4(1) (ii), *ibid.*

³Substituted for the words "shall be forfeited" by sec. 4(1) (iii), *ibid.*

⁴Inserted by sec. 4(2) (i), *ibid.*

⁵Inserted by sec. 4(2) (ii), *ibid.*

⁶Substituted for the words "enters upon land in the possession of another or upon private waters" by sec. 5, *ibid.*

⁷This figure was inserted by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Bengal Act IV of 1897

(THE CALCUTTA BURIAL BOARDS ACT, 1889.)¹

SHORT TITLE GIVEN ... Act I of 1903.
 REPEALED IN PART ... Act I of 1903.
 AMENDED ... Ben. Act I of 1939.
 REPEALED IN PART AND ... Ben. Act I of 1913.
 AMENDED

ADAPTED (a) The Government of India
 (Adaptation of Indian
 Laws) Order, 1937.
 (b) The Adaptation of Laws
 Order, 1950.
 (11th September, 1889.)

An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.

Whereas it is expedient to make better provision for the superintendence, management or control of Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans, in Calcutta as defined in ²[the Calcutta Municipal Act, 1923] ;

Preamble.

Ben. Act
 III of 1923.

It is hereby enacted as follows :—

1. (*Commencement of Act.*)—Rep. by sec. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903.)

2. In this Act “public Muhammadan burial-ground” includes those Muhammadan burial-grounds enumerated in the First Schedule, and any others in which Muhammadans generally of any particular sect are in the habit of burying their dead.

Definition
 of “public
 Muham-
 madan
 burial-
 ground”.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see the Calcutta Gazette* of 1889, Pt. IV, page 29 ; for Report of Select Committee, *see ibid*, page 85 ; and for Proceedings in Council, *see ibid*, Supplement, pages 664, 718, 955, 1820 and 1869.

LOCAL EXTENT.—This Act extends to “Calcutta” as defined in the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), *i.e.*, the town and suburbs of Calcutta (*see* the preamble), and may be applied to public Muhammadan burial-grounds in the “vicinity” of Calcutta (*see* secs. 7 to 9), and to certain burial-grounds in unspecified places (*see* sec. 14). The Calcutta Municipal Act, 1923 has been repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), and any reference to the repealed Act should now be taken as a reference to the corresponding provisions of the Act of 1951.

²These words and figure were substituted for the words and figure “the Calcutta Municipal Consolidation Act of 1888” by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

[Ben. Act IV]

(Sections 3—6.)

State
Government may
appoint
a Burial
Board.

3. The ¹[State Government] may, by a notification published in the ²[Official Gazette], appoint a Muhammadan Burial Board for Calcutta.

Constitution
of
Board.

4. (1) The Board shall be constituted as follows :—

the ³[Executive Officer] for the time being of the Corporation of Calcutta ;

the Health Officer for the time being of Calcutta ;

an officer of the Public Works Department appointed by the ³[State Government] ;

and not less than six, or more than nine, other members, who shall be Muhammadans appointed by the ¹[State Government],

(2) The ¹[State Government] may, from time to time, relieve any member of the Board appointed by it of his functions as such member.

Executive
Officer of
Calcutta
Corpora-
tion to be
ex-officio
Chairman
of Board.

5. The ³[Executive Officer] of the Corporation of Calcutta shall *ex-officio* be Chairman of the Board.

Superin-
tendence,
manage-
ment or
control of
public
Muham-
madan
burial-
grounds
enumerated
in the
First
Schedule
to be exer-
cised by
Board.

6. The superintendence, management or control of the public Muhammadan burial-grounds enumerated in the First Schedule shall, subject to the provisions of this Act, be exercised by the Board :

Provided that the Muhammadan Burial Board shall not exercise control over such portion of any public Muhammadan burial ground as the ¹[State Government] may declare to have been hitherto set apart for the burial of persons other than Muhammadans.

¹The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "State" was substituted for the word "Provincial" by para. 4 (1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were substituted for the word "Chairman" by sec. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1889.]

(Sections 7—11.)

7. The ¹[State Government] may, by an order published in the ²[Official Gazette], from time to time place any other public Muhammadan burial-ground in Calcutta or its vicinity under the superintendence, management or control of the Board.

State Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board.

8. (1) The superintendence, management or control of any Muhammadan burial-ground situate in, or in the vicinity of, Calcutta may, with the sanction of the ¹[State Government], be transferred by the owner or custodian thereof to the Board upon such terms as may be arranged between the Board and such owner or custodian.

Provision for making over private burial-grounds to charge of Board.

(2) And such burial-ground shall thereupon be managed in all respects as a public Muhammadan burial-ground subject to the provisions of this Act.

9. The Board may, with the sanction of the ¹[State Government], purchase any land in, or in the vicinity of, Calcutta, whether previously used as a burial-ground or not, with the object of extending any public burial-ground under its charge or of forming a new public burial-ground.

Power in Board to create new burial-grounds or extend those already in existence by purchase of land.

10. The ¹[State Government] may, * * * * * at any time, withdraw any burial-ground from the superintendence, management or control of the Board.

Power to withdraw burial-grounds from superintendence, management or control of Board.

11. The Board shall receive all fees and other monies paid or given in respect of the use of such burial-grounds, the digging of graves and the erection of monuments therein and such grants

Board to receive and account for fees and grants.

¹See foot-note 1 on page 724, ante.

²See foot-note 2 on page 724, ante.

*The words "in its discretion" were omitted by para. 8 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act IV**(Sections 12—14.)**

as the ¹[State Government] may, from time to time, place at their disposal ; and shall pay thereout all charges and expenses incurred by them in the management and superintendence of the same, and shall submit accounts of such receipts and expenditure once in every year to the ¹[state Government] in such form and manner as the ¹[State Government] may direct.

Board
may ap-
point
subordinate
establish-
ment.

12. The Board may, from time to time, appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and power to assist in carrying out the purposes of this Act ; and may, from time to time, remove any of such persons and appoint others in their place.

Power to
make rules.

13. (1) The Board may, with the sanction of the ¹[State Government], from time to time make such rules consistent with the purposes of this Act, as they think necessary for any of the following purposes ; that is to say—

- (a) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings ;
- (b) for the preservation, repair, and when necessary the re-moval, of existing monuments, and for regulating the dimensions of new monuments in any burial-grounds under their charge ;
- (c) for regulating the scale and mode of payment of fees, charges and other dues in respect of interments in any burial-ground, and for the expenditure of the same ;
- (d) for directing the manner in which, and the persons by whom, all works within any such burial-ground shall be executed ; and
- (e) for otherwise carrying out the purposes of this Act.

(2) And may, from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

(3) All rules so made, and variations, alterations or revocations of rules, shall be published in the ²[*Official Gazeette*].

Appoint-
ment of
Burial
Board for
any com-
munity.

³14. (1) The ¹[State Government] may, by notification in the ²[*Official Gazette*], appoint a Burial Board for Calcutta, for any community other than the Christian and Muhammadan communities.

¹See foot-note 1 on page 724, *ante*.

²See foot-note 2 on page 724, *ante*.

³Sections 14 to 19 were substituted for the original section 14 by sec. 2 of the Calcutta Burial Boards (Amendment) Act, 1918 (Ben. Act I of 1918).

of 1889.]

(Sections 15—17.)

(2) Every such Board shall consist of—

- (a) the ¹[Executive Officer] of the Corporation of Calcutta,
- (b) The Health Officer of the Corporation of Calcutta,
- (c) an officer of the Public Works Department to be nominated from time to time by the ²[State Government], and
- (d) not less than three nor more than six members representing the community concerned, to be nominated from time to time by the ³[State Government].

(3) The ¹[Executive Officer] of the Corporation of Calcutta shall be the Chairman of every such Board.

¹⁵. The ²[State Government] may, by notification in the ⁴[*Official Gazette*], declare that any nominated member of any Burial Board appointed under section 14 shall cease to be a member if he has, without the leave of the Chairman of the Board, been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months.

Removal of nominated members of Boards appointed under section 14.

¹⁶. If any nominated member of any such Board be permitted by the Chairman of the Board to absent himself from meetings of the Board for any period exceeding three months,

Filling of casual vacancies.

or dies, or resigns his membership, or ceases to be a member in pursuance of a notification published under section 15,

the vacancy shall be filled by a fresh nomination under section 14.

¹⁷. (1) The term of office of the first members nominated to any such Board shall commence on such day as may be appointed by the ²[State Government].

Term of office of nominated members.

(2) Subject to the provisions of section 4, sub-section (2), and section 15, the term of office of members nominated to any such Board shall be as follows :—

- (a) a member nominated in pursuance of section 16 in the place of a member who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter member ; and
- (b) other members—five years.

¹ See foot-note 3 on page 724, *ante*.

² See foot-note 1 on page 724, *ante*.

³ See foot-note 3 on page 726, *ante*.

⁴ See foot-note 2 on page 724, *ante*.

[Ben. Act IV

(Sections 18, 19 and the First Schedule.)

(3) Any nominated member shall be eligible for re-nomination at the end of his term of office,

Transfer
of burial-
grounds.

¹18. The ^a[State Government] may place under the superintendence, management or control of the Burial Board appointed for any community under section 14—

- (a) any portion of a public Muhammadan burial-ground which is excluded from the control of the Muhammadan Burial Board by the proviso to section 6, and which is used for the interment of persons belonging to such community, and
- (b) any other public burial-ground, or portion thereof, which is used, or is intended to be used, for the interment of persons belonging to such community.

Applica-
tion of
sections
4(2) and
8 to 13 to
Boards
appointed
under
section 14.

¹19. Section 4, sub-section (2), and sections 8 to 13 shall apply, *mutatis mutandis*, to all Burial Boards appointed under section 14 and to burial-grounds under the superintendence, management or control of such Boards as well as to the Muhammadan Burial Board and Muhammadan burial-grounds.

THE FIRST SCHEDULE.

(See section 6.)³

SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED UNDER SUPERINTENDENCE MANAGEMENT, OR CONTROL OF BOARD.

- (1) Chopdar Bagan burial-ground, No. 54, Upper Circular Road, and Nos. 26 and 27, Manicktollah. Area of public portion, 3 *bighas* 12 *cottahs*, 3 *chitacks*, more or less.
- (2) Meah Bagan burial-ground, Nos. 52 and 53, Manicktollah. Area of public portion, 3 *bighas*, 1 *cottah*, 7 *chitacks*, more or less.
- (3) Khodadad's burial-ground, No. 15, Moonsheepara Lane, Area, 4 *bighas*, 18 *cottahs*, 7 *chitacks*, more or less.
- (4) Rahim-ud-deen Moonshee's burial-ground, No. 20, Canal Road, West. Area, 5 *bighas*, 16 *cottahs*, 7 *chitacks*, more or less.

¹See foot-note 3 on page 724 *ante*.

²See foot-note 1 on page 724, *ante*.

³This Schedule is also referred to in sec. 2, *ante*.

of 1889.]

(The Second Schedule.)

- (5) Gobra *Gorasthan*, No. 1, Gobra Road, Area, 6 *bighas*, more or less.
- (6) Talbagan burial-ground, No. 6, Tiljullah 1st Lane. Area, 10 *bighas*, 11 *cottahs*, more or less.
- (7) Talbagan *Khoyratee Gorasthan*, No. 7, Tiljullah 1st Lane. Area, more or less, 1 *bigha*, 3 *cottahs*.
- (8) New Kasiabagan burial-ground, Tiljullah 1st Lane. Area of Muhammadan portion, 12 *bighas*, more or less.
- (9) Sola-anna *Kobrasthan*, No. 70, Ekbalpore Road. Area, 17 *bighas*, 18 *cottahs*, more or less.
- (10) Moonshree Ahmud Beggke *Kobrasthan*, Halsu Toloa, Ramnugger Lane, Area, 4 *bighas*, more or less.

THE SECOND SCHEDULE.

Rep. by the Calcutta Burial Boards (Amendment) Act, 1913
(*Ben. Act 1 of 1913*).

